

STATE OF CALIFORNIA
THE RECLAMATION BOARD
REGULAR BOARD MEETING
OPEN SESSION

RESOURCES BUILDING
1416 NINTH STREET
AUDITORIUM
SACRAMENTO, CALIFORNIA

FRIDAY, SEPTEMBER 15, 2006
9:00 A.M.

JAMES F. PETERS, CSR, RPR
CERTIFIED SHORTHAND REPORTER
LICENSE NUMBER 10063

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

BOARD MEMBERS

Mr. Benjamin Carter, President
Mr. Butch Hodgkins, Vice President
Ms. Lady Bug Doherty, Secretary
Ms. RoseMarie Burroughs, Member
Ms. Teri Rie, Member

STAFF

Mr. Jay Punia, General Manager
Mr. Stephen Bradley, Chief Engineer
Ms. Nancy Finch, Legal Counsel
Mr. Dan Fua, Supervising Engineer
Mr. Scott Morgan, Legal Counsel
Ms. Lori Buford, Staff Assistant

ALSO PRESENT

Mr. Dan Boatwright, Castle Companies
Mr. Paul Brunner, Three Rivers Levee Improvement Authority
Mr. Larry Dacus, MBK Engineers
Mr. Wayne Green, Knights Landing Citizens Advisory
Committee
Ms. Alicia Guerra, Morrison & Foerster
Mr. Rich Jenness, Laugenour & Meikle

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APPEARANCES CONTINUED

ALSO PRESENT

Mr. Don Kurosaka, Department of Water Resources

Mr. Noel Lerner, Department of Water Resources

Mr. Rod Mayer, Department of Water Resources

Mr. Mike Mirmazaheri, Department of Water Resources

Mr. Dave Mraz, Department of Water Resources

Mr. John Raney, Raney Geotechnical

Mr. Val Toppenberg, City of West Sacramento

Mr. Brian White, Department of Water Resources

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1 PROCEEDINGS

2 PRESIDENT CARTER: Good morning, ladies and
3 gentlemen. Welcome to the State Reclamation Board
4 Meeting.

5 First, if we could, let's call the roll. Mr.
6 Punia will call the roll. And then we will go into our
7 closed session.

8 GENERAL MANAGER PUNIA: For the record, this is
9 Jay Punia. All the Board members are present.

10 PRESIDENT CARTER: Very good.

11 Okay. With that, what we'd like to do is go in
12 to closed session. So what's the Board's pleasure? Do we
13 want to have just Board members, Board staff, no members
14 of the public?

15 STAFF COUNSEL MORGAN: We certainly don't have
16 members of the public. And Department employees who are
17 relevant could be here if the Board wanted them to be here
18 if they have something to contribute. But it appears
19 there's no one here.

20 Lori is handing out right now the memo, legal
21 justification for a closed session, and it was e-mailed to
22 everyone one last night, along with a portion of the
23 complaint filed by NRDC. And that in a nutshell forms the
24 legal justification for holding a closed session.

25 But I think the Board needs to make the finding

1 that a closed session is justified under the Bagley-Keene
2 Act. And my memo outlines that justification, because
3 there is in fact an act of a lawsuit that has been filed
4 by the NRDC.

5 PRESIDENT CARTER: So what I would suggest if
6 it's okay with the rest of the Board is that we have Board
7 and Board staff here for this closed session. Is that
8 Okay?

9 Okay. Very good. And I think that's all we
10 have.

11 BOARD MEMBER BURROUGHS: Will we --

12 PRESIDENT CARTER: You're part of the staff,
13 Dave.

14 MR. LANE: Well, I'm not going to record.

15 BOARD MEMBER BURROUGHS: Will we be meeting here
16 or in this other little room?

17 STAFF COUNSEL MORGAN: We'll be meeting here
18 because we're going to keep a record of it. This will be
19 a sealed transcript that will not be part of the published
20 transcription.

21 BOARD MEMBER BURROUGHS: Okay. Thank you, Mr.
22 Chair.

23 PRESIDENT CARTER: Okay. Scott, you want to go
24 ahead then?

25 STAFF COUNSEL MORGAN: Okay. So I'm going to

1 take it then that the Board does find that there's
2 sufficient legal justification for a closed session?

3 CHIEF ENGINEER BRADLEY: Do we need a motion?

4 PRESIDENT CARTER: Do we need a motion?

5 STAFF COUNSEL MORGAN: You can make a motion,
6 yeah.

7 PRESIDENT CARTER: So we would entertain a motion
8 to that effect.

9 SECRETARY DOHERTY: I'll so move.

10 BOARD MEMBER BURROUGHS: I second.

11 PRESIDENT CARTER: Okay. We have a motion and a
12 second.

13 Any discussion?

14 All those -- excuse me.

15 BOARD MEMBER RIE: Oh, sorry.

16 Are we doing it here?

17 STAFF COUNSEL MORGAN: Yes.

18 BOARD MEMBER RIE: What if someone walks in the
19 back door?

20 STAFF COUNSEL MORGAN: There's a sign on the door
21 advising them not to walk in the back door.

22 PRESIDENT CARTER: And Dave's going to --

23 STAFF COUNSEL MORGAN: But Dave's going to guard
24 it?

25 PRESIDENT CARTER: Dave's going to guard the

1 door.

2 STAFF COUNSEL MORGAN: There's some DWR people
3 who are sitting right outside. Otherwise it's on the
4 honor system.

5 BOARD MEMBER RIE: Okay.

6 PRESIDENT CARTER: Very good.

7 So all those in favor indicate by saying aye.

8 (Ayes.)

9 PRESIDENT CARTER: And opposed?

10 Okay. The motion carries.

11 STAFF COUNSEL MORGAN: Very good.

12 (Thereupon the Board recessed in to
13 closed session at 9:05 a.m.)

14 (Thereupon a recess was taken and then
15 reconvened the open session at 9:45 a.m.)

16 PRESIDENT CARTER: Good morning, ladies and
17 gentlemen. If we could continue with our meeting.

18 First of all, I'd like to welcome members of the
19 public.

20 We started out the morning with a closed session
21 to discuss litigation to the Natural Resources Defense
22 Council versus the Reclamation Board. Our attorneys
23 briefed us on that situation. No decisions were made.

24 We are now in open session. And I would first
25 like to mention that there are a couple new faces here

1 with us.

2 First, as most of you already know, Mr. Jay Punia
3 is the new General Manager of the State Reclamation Board.
4 We're all very excited that Jay's joined us. He comes to
5 us from DWR, with over 25 years of experience with DWR.
6 He's worked as the Chief of Flood Operations since 1998.
7 He's intimately involved and knowledgeable about the flood
8 control system; has probably seen all, if not the vast
9 majority, of the projects within the State. He has worked
10 closely with agencies that the Reclamation Board work
11 closely with: The Corps of Engineers, obviously DWR,
12 local reclamation districts, and also the Office of
13 Emergency Services. So he's intimately qualified. We are
14 very, very fortunate to have him join us. So please
15 welcome Jay.

16 And also we have Nancy Finch, who is an attorney
17 with DWR. She comes to us from private practice. And
18 she'll be assisting Scott in advising the Board and
19 helping us on legal issues. So, Nancy, welcome.

20 STAFF COUNSEL FINCH: Thank you.

21 PRESIDENT CARTER: And with that, we'll go on to
22 Item 3, Approval of the Minutes for June 16th, 26th and
23 July 21st.

24 SECRETARY DOHERTY: I would like to see us
25 postpone those. There are some errors in the minutes, and

1 we'd like to go over those, rewrite the sections that are
2 incorrect and then present them for your approval.

3 I also have a question about the May meeting. I
4 had down that we had already approved the May 19th
5 minutes.

6 STAFF ASSISTANT BUFORD: Yes. They just weren't
7 signed.

8 SECRETARY DOHERTY: Oh, okay.

9 STAFF ASSISTANT BUFORD: We didn't get all the
10 signatures before the meeting. Everybody had left.

11 SECRETARY DOHERTY: All right, all right. So --

12 STAFF ASSISTANT BUFORD: They were approved.

13 SECRETARY DOHERTY: Okay. So that's what we'd
14 like to see happen as far as the minutes go.

15 Do we need a motion?

16 PRESIDENT CARTER: Yes.

17 SECRETARY DOHERTY: I'd like to make a motion
18 that we put off approval of the minutes until our October
19 meeting, the minutes of July 21st, June 16th and 26th.

20 BOARD MEMBER RIE: Second.

21 PRESIDENT CARTER: Okay. There's a motion and a
22 second.

23 Any discussion?

24 All those in favor indicate by saying aye.

25 (Ayes.)

1 PRESIDENT CARTER: And opposed?

2 So the motion carries.

3 Okay. We will revisit these in October.

4 Second -- or Item --

5 BOARD MEMBER BURROUGHS: Excuse me. Were we

6 going to make the corrections now and then review?

7 SECRETARY DOHERTY: Well, we've got quite a few.

8 PRESIDENT CARTER: I think Lady Bug's suggestion
9 was to go ahead and make the editorial changes to them and
10 send them out as part of the October Board packet so the
11 Board could review them at that point.

12 BOARD MEMBER BURROUGHS: Okay. But my question
13 would be how would you get all the --

14 SECRETARY DOHERTY: Could you meet with us at
15 lunch time?

16 BOARD MEMBER BURROUGHS: Okay.

17 PRESIDENT CARTER: Or you could submit your
18 corrections to staff and they can make the corrections.
19 And then we'll -- typically the secretary reviews those
20 minutes before they go out in the Board packet.

21 BOARD MEMBER BURROUGHS: Okay. That'll be fine.

22 PRESIDENT CARTER: That would be the process.

23 BOARD MEMBER BURROUGHS: Thank you.

24 PRESIDENT CARTER: Okay. Item 4, approval of the
25 agenda for today.

1 Are there any changes to the agenda as it was
2 submitted? Any change in order?

3 All right. Then we'll entertain a motion to
4 approve the agenda.

5 SECRETARY DOHERTY: I'll make a motion that we
6 approve the agenda as presented.

7 BOARD MEMBER RIE: Second.

8 PRESIDENT CARTER: Okay. There's been a motion
9 and a second to approve the agenda for September 15th,
10 2006.

11 Any discussion?

12 All those in favor indicate by saying aye.

13 (Ayes.)

14 PRESIDENT CARTER: And opposed?

15 The motion carries unanimously.

16 All right. At this time we have Item 5, time for
17 public comments. These are comments that any member of
18 the public who may wish to address the Board on items that
19 are non-agendized for today, they're welcome to address
20 the Board. We ask that people limit their comments to no
21 more than five minutes please.

22 And if you do want to be recognized by the Board,
23 either at this time or in any other future time, please
24 fill out one of the cards that are available on the table
25 at the entrance to the auditorium so that we know to

1 recognize you.

2 At this time I don't have any cards before me.

3 Is there anybody from the public who wishes to address the
4 Board on non-agendized items?

5 Okay. Then we will go ahead and move on.

6 Item 6, Report of the Activities of the
7 Department of Water Resources.

8 Mr. Mayer. Welcome.

9 DIVISION OF FLOOD MANAGEMENT ACTING CHIEF MAYER:

10 Thank you, President Carter, members of the Board
11 and General Manager Punia.

12 Good morning. And I'd like to commend the Board
13 on its selection for General Manager. I've worked with
14 Jay for many years and I know he'll do a fine job for you.

15 PRESIDENT CARTER: I'd like to thank DWR for
16 their help in the administration of the selection and
17 search process. So please pass my thanks on to the rest
18 of the Department.

19 DIVISION OF FLOOD MANAGEMENT ACTING CHIEF MAYER:

20 I will do that.

21 In addition to myself, we will have Brian White
22 presenting an update for you on legislative activities and
23 Don Kurosaka presenting information on the Critical
24 Erosion Repair Program.

25 To save Brian the time involved in my

1 presentation with Don's, I was going to ask him to come up
2 first. And then I will come back and go through my report
3 and Don will follow me.

4 LEGISLATIVE AFFAIRS ASSISTANT DIRECTOR WHITE:

5 Good morning, Mr. President, Board members, staff. It's
6 good to be back.

7 PRESIDENT CARTER: It's good to have you back.

8 LEGISLATIVE AFFAIRS ASSISTANT DIRECTOR WHITE:

9 Well, thank you.

10 PRESIDENT CARTER: Exciting times.

11 LEGISLATIVE AFFAIRS ASSISTANT DIRECTOR WHITE:

12 Definitely. That's an understatement.

13 Before I begin the legislative update, I just
14 want to give a thanks to Les Harder, Deputy Director; Rod
15 Mayer, Chief of Flood Management; and Scott Morgan for all
16 the hard work they did this year on a lot of flood bills.
17 They put a lot of staff time in. And although there's not
18 much to show policy-wise on some of the flood bills that
19 were presented before the Legislature, DWR staff was
20 involved right in the thick of it literally. And I just
21 want to show my appreciation for the work. And I look
22 forward to working with Jay Punia as well.

23 So in terms of the 2006 legislative session --
24 and I guess you really kind of have to step back to 2005
25 because that's where it really all started -- we really

1 had this, I like to call it, a perfect storm of events. I
2 mean we had this Paterno decision first came, to the
3 devastation of Katrina which we thought provided emphasis
4 for the Legislature to pass some significant policy bills
5 this year.

6 And I thought, you know, they actually did a good
7 job funding wise. I think you all know they passed
8 flood -- that's before the voters in November. They
9 significantly increased DWR's budget and also provided
10 emergency appropriation for critical erosion sites. And
11 so there is some good news other than just that the bills
12 that did not pass that was reported in the newspapers.
13 Legislature did step up to the plate funding wise.

14 And so what we have as a result, most of the
15 policy bills that were introduced failed literally in the
16 last session. And it was really because of three -- call
17 them the three P's. We had politics, personalities,
18 policy differences, for a variety of different reasons.
19 But, you know, DWR was right there in the middle. We
20 provided more of the insight, technical expertise for
21 legislative staff, the Governor's office and stakeholders.

22 But at the end of day I think public safety bills
23 that were actually supported by everyone actually got in
24 the way because liability issues took center stage,
25 unfortunately.

1 But all that being said, I think for the most
2 part I think we'll be pleased with some of the things that
3 the Governor will do in the coming up months. There's
4 some administrative things that we can do. And some of
5 the bills that are sitting on his desk right now, there
6 are two of them.

7 I think when I came before you in I think it was
8 March or April, there were 30 bills introduced. Of those
9 30 bills, only 3 made it to the Governor's desk. One of
10 them is supported by the Department, AB 798. And this is
11 the bill by Assembly Member Wolk that will extend the
12 Delta Levee Maintenance Subventions Program for another
13 four years. So this will help local districts who do work
14 in the Delta meet the maintenance requirements. They'll
15 be able to use the 25 percent match instead of diverting
16 back to the 50 percent match. That would have been a
17 tough pill to swallow. And so we expect the Governor to
18 sign that bill.

19 There was also a bill dealing with a flood
20 project Pájaro River. That bill's sitting on the
21 Governor's desk. The Department didn't take a full
22 support position on the bill, but we did recommend that
23 the Governor sign it. It really just deals with a local
24 flood project in the Pájaro River area.

25 And then finally the bill that I think a lot of

1 you are aware of is SB 1796 by Senator Florez. This is
2 the so-called reclamation reform bill. The DWR and the
3 Governor's office was highly involved in this bill. We
4 tried to get it negotiated to where we could live with it
5 and where we could like it. And I'll come back to that in
6 a minute. But I just wanted to kind of run down. And you
7 can appreciate the response of what happened on the last
8 night session. As you know, AB 1665 was the Department's
9 administrative sponsored bill which would have improved
10 local coordination between the state and local
11 governments, would have provided more updated maps for the
12 Department to do. Also required us to do a state plan of
13 flood control and also to allow us to go in to local
14 maintenance areas and take over the maintenance and then
15 require that local maintenance area to continue to still
16 do the maintenance in the future. And this would be more
17 of an abatement type situation where some of the local
18 maintenance areas may not have been doing the work that
19 was needed to maintain that area.

20 Now, of course we know of five other bills, one
21 dealing with -- AB 1899 by Assembly Member Wolk, required
22 a plan for 200-year flood protection and then also an
23 immediate certification if you have 100-year protection.
24 Without those two requirements, a future development could
25 not proceed.

1 There was also a bill that would have required
2 greater planning for flood protection general plans, AB
3 802. And there was also a bill that would have prohibited
4 the state from fighting funds for upgrades of project
5 levees if the local area did not have a safety plan.

6 Now, DWR for the most part supported all of these
7 bills. Eighteen ninety-nine, we really didn't support the
8 bill in its current form because we were concerned about
9 the liability aspects that were going to be imposed on the
10 Department and the state, and also the immediate building
11 moratorium just for having a hundred year protection right
12 away. We suggested to the author that she span that out
13 over a number of years and have a reasonable plan to get
14 to a 100-year and also a 200-year plan at a reasonable
15 timeframe.

16 I think that hundred-year certification standard
17 really was kind of a hiccup of the politics that got
18 involved. The Senate got involved at the last minute.
19 And also there was concerns about downstream impacts, from
20 having developments need a 200-year requirement, what
21 happens downstream? And so that was an issue that the
22 Senate raised. So what happened was they put all these
23 bills in the last night session into AB 1665. Which was
24 rather ironic because it was our sponsored bill. So they
25 put 1899, AB 802, AB 2500 and a liability provision that

1 would have required that cities and counties hold all
2 liability for future development.

3 That was a poison pill. And the champion of
4 flood protection throughout, the Assemblyman Wolk, decided
5 to just hold the bill on the last night session because
6 she could not live with it.

7 And so that's really kind of a rundown of what
8 happened on a lot of the flood bills, at least those
9 higher priority ones. And SB 1796, which is one that is
10 part of the flood package, although the Senate did not
11 want it to be part of the flood package, it did make it
12 out of the Legislature and is currently before the
13 Governor.

14 And what it does, it requires two new appointees
15 by the Legislature, one by the Senate and one by the
16 Assembly. It also requires that all of the Governor's
17 appointees be confirmed by the Senate, while the two
18 legislative appointees would not be confirmed. It also
19 requires that Board members have specific expertise. So
20 you'll need an engineer, an attorney experienced in water
21 policy, another member who has expertise in hydrology.
22 And then there's three public members. And the rest were
23 just the Governor's appointees.

24 It also requires the Department to do a --
25 prepare a state plan of flood control, which would be

1 approved by the Rec Board, and also include an evidentiary
2 hearing requirements ex parte communication limitations
3 and also limitations on advocating for the Army Corps.

4 So the Department was fairly -- we thought the
5 bill in its shape was okay except for these three areas.
6 We did not agree with the two new appointees by the
7 Legislature. We thought that was taking away the
8 Governor's powers in dealing with providing members to the
9 Rec Board. And also a provision that required that the
10 Rec Board review all local land-use plans. Huge staff
11 undertaking to do that. We estimated that the fiscal
12 impact to do that to implement this bill would have been
13 about \$2 million a year. And the current Rec Board's
14 budget is about 600,000.

15 So I think -- I can't speak for the Governor and
16 I can't speak for the Governor's office. But I would not
17 think that this bill would get signed in its current form.
18 I think there's some things administratively that The Rec
19 Board can do and the Department can do to improve the
20 perception that things are not going as well as the
21 Legislature thinks they're not. But in its current form
22 we just didn't think this bill could receive our support.

23 I'm here to answer any questions.

24 PRESIDENT CARTER: What are some of those things
25 that you think that the Rec Board and the Department can

1 do administratively to improve the situation?

2 LEGISLATIVE AFFAIRS ASSISTANT DIRECTOR WHITE:

3 One we'll be doing is improving the mapping. That's one

4 of the first orders of business that we know we can do.

5 We have authority to improve mapping. We're going to

6 start going at it.

7 We also have the critical erosion sites that we

8 also need to take care of. And we're going to start

9 trying to provide assistance to the locals to access some

10 of the funds that the Legislature appropriated for 500

11 million.

12 Other things that we can do, we can do state plan

13 of flood control. We're doing that now as a matter of

14 fact. We're budgeted by the Legislature to do the state

15 plan of flood control over a three-year period. So we

16 didn't think that was necessary in the bill as well.

17 Some of the other things that -- you know, like

18 evidentiary hearings as far as the communications. The

19 Board is not really a quasi-judicial board, like the Water

20 Board and the Coastal Commission. So those areas -- well,

21 I think maybe Scott Morgan or one of the attorneys can

22 maybe suggest ideas on how to deal with that. And the

23 evidentiary hearings, I think everything that's presented

24 before the Board is already in the record. And we have

25 folks who are taking notes right now.

1 So I'm just not sure exactly what more the
2 Legislature thinks the Rec Board needs in order to improve
3 their perception. But we think we can do some things
4 administratively to improve it.

5 PRESIDENT CARTER: Okay.

6 VICE-PRESIDENT HODGKINS: It sounds like we've --
7 that's the collective "we" -- we've given up on the idea
8 of any kind of assessment to provide stable, long-term
9 flood maintenance.

10 LEGISLATIVE AFFAIRS ASSISTANT DIRECTOR WHITE: I
11 wouldn't say we have given up. It was one of the hottest
12 debated subjects in the Legislature. We had that in our
13 bill before. A lot of senators did not agree with the
14 approach that we had took. Mainly they want to see where
15 are the benefits. All the idea's spreading out,
16 maintenance, assessments, is palatable to us because we
17 think it actually is going to reduce the cost for those
18 beneficiaries who have to pay for maintenance
19 improvements. A lot of senators and legislators do not
20 agree that someone should pay for another person's levee
21 improvements if they live upstream or downstream, away
22 from where that improvement's going to take place.

23 I think what we wanted to do though is to have a
24 study of the beneficiaries. And that was one of the bills
25 that was going to -- that we supported, was going to be a

1 study of who benefits from project levees and who benefits
2 from Delta levees, non-project levees. That bill also got
3 held up in the last night session.

4 So I think we need to do the initial planning
5 work first before we can just impose the entire new
6 maintenance assessment district on the entire --

7 VICE-PRESIDENT HODGKINS: Is DWR going to be
8 working on that?

9 LEGISLATIVE AFFAIRS ASSISTANT DIRECTOR WHITE: I
10 think that's something we can do administratively as well.
11 I think we're already funded for it.

12 VICE-PRESIDENT HODGKINS: Okay.

13 BOARD MEMBER BURROUGHS: I'd like to know if our
14 attorneys have any comments about this current bill.

15 STAFF COUNSEL MORGAN: No comment.

16 (Laughter.)

17 PRESIDENT CARTER: Okay. Mr. White, what
18 happened to the 1574 -- AB -- or it has to be 1570 -- or
19 SB 1574.

20 LEGISLATIVE AFFAIRS ASSISTANT DIRECTOR WHITE:
21 Right. That's a bill related to the Delta vision process.
22 As you probably already know, CALFED is in the process of
23 trying to reorg some of their missions in terms of: How
24 do we have a long-term vision for the Delta? And one of
25 the things that the Governor is planning to do is to form

1 a task force of the best of the best minds. Not the usual
2 suspects, but folks who really can think outside the box
3 in terms of how do we improve the Delta so that it's
4 sustainable for the next 20 or 30 years. And one of the
5 things that this bill does, it provides that
6 implementation to do that Delta vision planning. We don't
7 necessarily need a bill to do that. But I think what the
8 Legislature wanted to do is to show that they wanted some
9 input on how this Delta vision plan was going to work. We
10 think that bill might be get some, but we're not sure.

11 PRESIDENT CARTER: But that one's also on his
12 desk then?

13 LEGISLATIVE AFFAIRS ASSISTANT DIRECTOR WHITE:
14 Yes. That's on his desk.

15 PRESIDENT CARTER: All right. Any other
16 questions for Mr. White.

17 BOARD MEMBER RIE: What did you say about the
18 Delta levees subventions bill?

19 LEGISLATIVE AFFAIRS ASSISTANT DIRECTOR WHITE:
20 That bill is sitting on the Governor's desk right now.

21 BOARD MEMBER RIE: Do you know off the top of
22 your head how much money it is?

23 LEGISLATIVE AFFAIRS ASSISTANT DIRECTOR WHITE:
24 It's about 12 to 15 million per year, I think it is, to
25 implement. We have money in the budget for the next --

1 for this year. And then when the bond passes, you'll have
2 money in there for the next ten years.

3 BOARD MEMBER RIE: For Delta levees subvention?

4 LEGISLATIVE AFFAIRS ASSISTANT DIRECTOR WHITE:
5 For Delta levees.

6 BOARD MEMBER RIE: So for the current year it's
7 12, 15, something like that?

8 LEGISLATIVE AFFAIRS ASSISTANT DIRECTOR WHITE:
9 Yeah -- oh, 17. Sorry.

10 BOARD MEMBER RIE: Oh, That's even better.

11 Okay. Thank you.

12 PRESIDENT CARTER: Which is huge over prior
13 years.

14 BOARD MEMBER RIE: Yeah, that's great.

15 PRESIDENT CARTER: It was 6 -- no, it's -- yeah,
16 4 or 6 in the past.

17 LEGISLATIVE AFFAIRS ASSISTANT DIRECTOR WHITE: I
18 think historically it's been about 6.

19 PRESIDENT CARTER: Very good.

20 All right. Thank you.

21 BOARD MEMBER BURROUGHS: Mr. President?

22 PRESIDENT CARTER: Yes.

23 BOARD MEMBER BURROUGHS: Before we leave 1796,
24 I'd like to know if any of the Board members have any
25 comments or if we as a board have any comments that we

1 would possibly submit to the Governor's office in regards
2 to this bill, whether we endorse having him sign it or
3 not.

4 PRESIDENT CARTER: Are there any Board members
5 that want to speak to that?

6 VICE-PRESIDENT HODGKINS: You know, my thoughts
7 are, if the Governor wanted to know what we thought, he'd
8 ask.

9 (Laughter.)

10 PRESIDENT CARTER: Any other comments from the
11 Board?

12 BOARD MEMBER BURROUGHS: My thought is the
13 Governor doesn't know he needs to ask.

14 VICE-PRESIDENT HODGKINS: It's possible.

15 PRESIDENT CARTER: I think it's -- just a general
16 comment. I think it's unfortunate -- the process on this
17 particular bill, with the Department being so involved but
18 the Rec Board being completely on the sidelines, is
19 unfortunate. Clearly it's one that directly impacts how
20 we operate and how we function as an entity, a group. And
21 it would have been nice had we been more involved in that
22 process and being able to provide input more upfront to
23 the administration on perhaps where this Board or perhaps
24 individuals on the Board felt about it, unfortunately.

25 So very good.

1 All right. Mr. White, thank you very much for
2 coming.

3 LEGISLATIVE AFFAIRS ASSISTANT DIRECTOR WHITE:
4 Thank you.

5 PRESIDENT CARTER: Appreciate that.
6 Mr. Mayer.

7 DIVISION OF FLOOD MANAGEMENT ACTING CHIEF MAYER:
8 Okay. I'll take you through the report.

9 I would like to skip water conditions. Nothing
10 much has changed during the summer, as it should be.

11 Moving on to the levee inspection and integrity
12 evaluations. We've begun our fall levee inspections.
13 We've put out our first quarterly report ever regarding
14 the spring and summer inspections, and the Board has that.
15 And it was done at the Board's request.

16 Some local agencies have been asking us for
17 assistance in performing the self-inspections that we've
18 been asking them to do, and we've been assisting them as
19 requested. And we've offered to help them fill out the
20 inspection forms which were developed in to an automated
21 database.

22 We've also received some correspondence signed by
23 a number of reclamation districts' local maintaining
24 agencies stating their concerns about the new procedures.
25 This is a new development really. As you may recall from

1 the May briefing, we did discuss this. And there were
2 actually questions from the Board about what's the local
3 support for the new procedure. And at the time, we had
4 had a number of public meetings -- or meetings with the
5 local agencies, I should say, in various cities. And the
6 objections were very minimal at the time. And even Reggie
7 Hill got up and an spoke at the May meeting and expressed
8 how it wasn't an issue for him at all. That was our sense
9 of the situation. Since then some opposition has -- to
10 this new procedure has consolidated and been manifested in
11 this correspondence. And we are preparing response to
12 their concerns and offering to meet with them, sit down
13 and talk about the issues and see what we might be able to
14 work out to the mutual satisfaction of both the Department
15 and these local agencies.

16 In general, we think what we're asking is very
17 reasonable. And the whole idea of asking for this
18 self-inspection really came from our state maintenance
19 yards who said that they would like to do this. They
20 don't see the need for the levee inspectors to be out
21 there as frequently as they are, on a quarterly basis.
22 And they would like to do their own inspections and feed
23 them into the system. And we thought, well, that's not a
24 bad idea; local agencies may also be willing to do that
25 and have the capability to do that.

1 It was never in our plan, in reconfiguring our
2 inspection program and in reorganizing it and budgeting
3 for it, for us to increase the number of levee inspectors
4 to actually go out and do four separate inspections each
5 year, which they had not done previously. What they had
6 done previously is a spring inspection followed shortly
7 thereafter with a joint inspection with the agency, and
8 then we did the same thing in the fall.

9 So the separation was not really what the federal
10 law requires, which is 90-day separation between the
11 inspections.

12 We had planned that we would keep our inspectors
13 at about the same level; we would add engineering staff;
14 we would redirect our inspectors, that had been doing the
15 joint inspections, to have them focus more on structures
16 and channel inspections, which they had not been doing in
17 full compliance with the law, and also have them pick up
18 designated floodway inspections, which had not been
19 occurring on a regular basis to the extent they should.
20 We would like to use them at least once a year. And,
21 furthermore, we added engineers to the group so that we
22 could begin evaluating the integrity of the system.

23 So that's where it stands with respect to this
24 issue. I think the next step is that we put our response
25 out to these local agencies who've written to us and we

1 meet with them and see what we can work out. Meanwhile
2 anyone asking for our assistance or joint inspections with
3 us, we are obliging them and helping them.

4 Next topic is Corps's PL 84-99 rehabilitation
5 assistance. Since I last spoke to you we've been
6 refining -- we've been doing a lot of work on this effort.
7 But one of the things we've been doing is refining the
8 count of what the sites are, how many there are, where
9 they're at. We now have a tally of 102 critical sites,
10 which are classified as either Order 1 or Order 2 sites,
11 Order 1 being severely damaged critical sites that protect
12 in the urbanized area Order 2, same definition except it's
13 not in an urbanized area.

14 We have 34 Order 1 sites in the Sacramento
15 Valley. We have 48 Order 2 sites in the Sacramento
16 Valley. And contrary to what it says in the report, we
17 have 20 Order 2 sites in San Joaquin system.

18 We have been negotiating with the Corps of
19 Engineers and have signed an agreement with the Corps of
20 Engineers for execution of PL 84-99 repairs on Order 1
21 sites in the Sacramento valley. And the agreement is
22 going through our administrative approval process. It
23 fits under the Governor's emergency declaration. It's
24 already been signed by the General Manager and the Colonel
25 of the Corps. And we are possibly today going to be able

1 to make the payment under that contract for \$13 million to
2 the Corps of Engineers for them to do the work.

3 Now, you may recall under PL 84-99
4 rehabilitation, the Corps is responsible to do the work
5 and to use its own funding to do it. Since there is no
6 funding on the federal side, they have been willing to
7 take our money and use our money to do the work, which
8 actually we are glad that they are doing it. They do have
9 the capabilities and resources and experience to do it,
10 and it's a little bit less load on us.

11 SECRETARY DOHERTY: Pardon me.

12 How many did you say were in the Sacramento area
13 critical?

14 DIVISION OF FLOOD MANAGEMENT ACTING CHIEF MAYER:
15 Thirty-four Order 1 sites and 48 Order 2 sites.

16 BOARD MEMBER BURROUGHS: Approximately how much
17 money did the Corps get for that work?

18 DIVISION OF FLOOD MANAGEMENT ACTING CHIEF MAYER:

19 Well, the Corps hasn't received any money --
20 well, maybe a few hundred thousand for design and planning
21 activities. Nothing significant, nothing for
22 construction. So this payment that we will make today or
23 Monday will be for 13.264 million. And that will be the
24 first construction money they'll have their hands on. And
25 they are poised now to award contracts with that money.

1 So once we make that payment, construction will begin on
2 Order 1 sites in the Sacramento Valley under the Corps in
3 the very near future.

4 There's more work than what the Corps is doing --
5 there's more work to be done than what the Corps is doing
6 under this first contract: The Order 2 sites that need to
7 be done; and, in addition, there are a number Order 1
8 sites that are in areas that the Corps isn't covering
9 under this agreement. And our strategy is to ask the
10 local maintaining agencies if they are willing and capable
11 of executing the work, provided we give them the funding
12 to do so. And some of them are saying, yes, they're very
13 interested in doing that, and we've developed a draft work
14 agreement in negotiating the agreement, the contract
15 language with them.

16 It looks like the first one that may be up will
17 be Reclamation District 3, which is Grand Island in the
18 Delta. And probably shortly thereafter would be
19 Brannan-Andrus Island. The two of them had a lot
20 of critical damage, and that would take out a lot of the
21 remaining sites.

22 Other areas that had significant damage in the
23 Sacramento Valley were RDs 2060, 2068 and 2098. RDs 2068
24 and 2098 essentially act as one hydraulic unit together.
25 And the Corps has evaluated the benefit-cost ratio to the

1 work in that area, and it's less than 1.

2 Consequently, that raises the issue, the Corps
3 wouldn't be able to do the work even if we funded them in
4 that situation. And we have to ask ourselves whether or
5 not we would do it and under what circumstances.

6 The same is true with Merritt Island, which is
7 Reclamation District 150. It's benefit-cost ratio is well
8 under 1.

9 And then one of them that's kind of close to 1
10 that we still haven't quite -- it needs to do some fine
11 tuning with Reclamation District 2060. And if that one
12 has a benefit-cost ratio greater than 1, we would hope to
13 enter into a work agreement with them of them to do the
14 work for at least their Order 1 sites.

15 BOARD MEMBER BURROUGHS: I have one question
16 about the Merritt Island. Is that because it is not an
17 urban area or --

18 DIVISION OF FLOOD MANAGEMENT ACTING CHIEF MAYER:

19 Well, yeah, certainly when the land is in
20 agriculture and there's very little urbanization, the
21 benefits of doing flood repairs are much lower.

22 BOARD MEMBER BURROUGHS: I just want to make a
23 statement about this benefit ratio that continues to come
24 up and how we have to live by that. But it would seem to
25 me that as a society our urban area that is in agriculture

1 is just as important as -- I mean our areas that are in
2 agriculture are just as important as urban areas, because
3 food is the life blood of our society.

4 Is there any -- would there be any
5 recommendations on how we could discuss that issue again?

6 DIVISION OF FLOOD MANAGEMENT ACTING CHIEF MAYER:

7 Well, certainly this issue will have to be
8 revisited and we'll have to make some hard decision on
9 something like that.

10 I think where we go next personally -- and
11 haven't really talked to many people about this -- is that
12 we then look at the system and look at, all right, if we
13 don't repair this, how does that play out? What are the
14 impacts not only to that specific area, which is all that
15 we've looked at, but also neighboring areas. And if there
16 are system benefits that we haven't captured in our
17 analysis to date that can make the difference and get the
18 benefit-cost over 1, then that's where we go. But that's
19 a much harder analysis. It takes time. And I don't see
20 that happening in time to get the work done this year.
21 But personally I think that's where we go next.

22 BOARD MEMBER BURROUGHS: Okay. I think that
23 would be great, because we need to look at -- since the
24 system is so fragile and delicate and intricate, it would
25 seem that looking at the holistic part is the way that the

1 approach needs to be decided. And I have trouble just
2 looking at -- in isolation the ratio for urban life versus
3 the whole system as a whole.

4 Thank you.

5 DIVISION OF FLOOD MANAGEMENT ACTING CHIEF MAYER:

6 Okay.

7 VICE-PRESIDENT HODGKINS: I think this is an
8 issue that perhaps deserves further discussion. I'm not
9 sure if this is the right venue to do that. But I think
10 you have to think about the fact that we're in a situation
11 right now where the Department potentially has \$500
12 million. And if you did all those erosion sites, how much
13 would it cost? What do you think, roughly?

14 DIVISION OF FLOOD MANAGEMENT ACTING CHIEF MAYER:

15 Half of that.

16 VICE-PRESIDENT HODGKINS: To do all the --

17 DIVISION OF FLOOD MANAGEMENT ACTING CHIEF MAYER:

18 Not all the erosion sites. All of what we would
19 do in the next year. I'm relying on federal funding to be
20 forthcoming to pick up the remaining PL 84-99 sites.

21 VICE-PRESIDENT HODGKINS: Okay. You know, I
22 think --

23 DIVISION OF FLOOD MANAGEMENT ACTING CHIEF MAYER:

24 Otherwise it would be all the money.

25 VICE-PRESIDENT HODGKINS: I think that the \$500

1 million, a portion of it should go to fixing the worst
2 erosion sites, and that makes a lot of sense. I think
3 it's important to understand though that erosion can
4 consume, in my opinion, an infinite amount of money. And
5 so because it can do that, there has to be some effort
6 made to recognize that there are lots of other problems
7 with this system that are perhaps not as obvious as
8 erosion, and it's because you can go out many times and
9 take a picture of an erosion site and people can see that
10 that's a problem. But you have to think about the fact
11 that, for instance, the '86 flooding of Linda and
12 Olivehurst has now cost the state a half a billion
13 dollars. And so there has to be some careful thought, in
14 my opinion, and I think the Board has some -- should have
15 some role in this, particularly in terms of offering the
16 public an opportunity to come in and talk about where the
17 money goes.

18 But I think, while we all agree it's a system,
19 and you have to go through it and treat it like a system
20 and remember that, I think when money is limited, you have
21 to set some priorities that are based on, I think, the
22 potential damages that could result and the number of
23 people that could be affected if you don't address a
24 problem. And that's going to be one of the biggest
25 challenges for the Board and this state as a whole, is

1 working through that issue.

2 And so I want to try to resolve anything here
3 today. But I want to be sure that at least from the
4 standpoint of this member of the Board that I think there
5 are -- there is a need to work through setting priorities
6 very carefully and that the potential damages that could
7 result, which unfortunately is another way of setting
8 cost-benefit ratio, have to be part of the consideration
9 in that. And I will leave it up to the rest of the Board
10 and our staff as to when somebody comes back and talks to
11 us more about that. But I think that's a very, very
12 important issue.

13 SECRETARY DOHERTY: I have a question for you
14 too, maybe a couple of them.

15 In your maintenance ratings for '06, on page
16 A8 -- and I'm just going to pick one that I'm intimately
17 associated with, and that's the Tisdale Bypass -- and it
18 says state maintained and it says satisfactory. And on
19 page A14, for the years of '97, '98, '99, and all the way
20 through it's compliant. But if that is so -- and I've
21 watched it in the wintertime when it's jammed up with logs
22 and it's jammed up now and it's scheduled for '07 -- how
23 can it be compliant and how can it be satisfactory when it
24 increases the river flow tremendously?

25 DIVISION OF FLOOD MANAGEMENT ACTING CHIEF MAYER:

1 I think what you're looking at is the levee
2 maintenance ratings. And the levee maintenance is rated
3 satisfactory.

4 SECRETARY DOHERTY: So it's the levee itself;
5 it's not what's inside the levee?

6 DIVISION OF FLOOD MANAGEMENT ACTING CHIEF MAYER:
7 That's correct. We do have channel maintenance
8 ratings. I'm not sure if they're contained in the
9 quarterly report or if they're just in the annual report.
10 But they're certainly in the annual report.

11 SECRETARY DOHERTY: Okay. Thank you.

12 PRESIDENT CARTER: Okay. Mr. Mayer, perhaps you
13 can give the Board some advice in terms of how it can get
14 involved in -- or be more active in terms of how the
15 priorities are set for doing some of this flood
16 maintenance.

17 DIVISION OF FLOOD MANAGEMENT ACTING CHIEF MAYER:
18 Well, I suppose it could be done with a small
19 committee or subcommittee of the Board in terms of
20 involving you. Otherwise we do it in a forum like this,
21 which it's a difficult forum to operate from for what
22 you're asking.

23 PRESIDENT CARTER: Right.

24 DIVISION OF FLOOD MANAGEMENT ACTING CHIEF MAYER:
25 Those are the two options that I see. And it

1 will be up to the Board whichever way you'd prefer to go.

2 PRESIDENT CARTER: Okay. So we can discuss that
3 as part of Item 19 as well on the agenda today. And
4 clearly there's -- I mean a lot of this -- this is
5 happening right now. It's probably a matter of some
6 urgency in terms of the Board to decide what it wants to
7 do. So we'll kind of discuss that and perhaps agendize it
8 for another meeting.

9 DIVISION OF FLOOD MANAGEMENT ACTING CHIEF MAYER:

10 And, you know, I regret that I did not bring with
11 me an AB 142 draft expenditure plan, because we do have a
12 draft expenditure plan. I do think you've -- some of the
13 comments that I just heard reflect the Board's interest
14 in: What are the priorities for spending 500 million?
15 Where would they go? How would the money be used? And we
16 have been working on that for the last several months very
17 hard to lay out a plan using existing authorities or
18 authorities that we think we can get in the future.

19 So I would like to bring that back to the Board
20 and share that with the Board at the earliest opportunity.

21 PRESIDENT CARTER: Okay. So we ought to plan on
22 including that for October.

23 GENERAL MANAGER PUNIA: Very well.

24 BOARD MEMBER BURROUGHS: As part of that plan, in
25 our earlier discussion also, working with DWR, do you have

1 any recommendations on a better relationship in regard to
2 legislation and being able to get input on that?

3 DIVISION OF FLOOD MANAGEMENT ACTING CHIEF MAYER:

4 It seems to me the only way to make that one work
5 would have to be through a subcommittee of the Board,
6 because that's not the type of things that we'd discuss in
7 public. Developing legislation or legislative concepts is
8 not done in a public setting.

9 BOARD MEMBER BURROUGHS: How about just to start
10 off with maybe informational meeting notices so that if
11 someone from the Board is able to attend, they could?

12 DIVISION OF FLOOD MANAGEMENT ACTING CHIEF MAYER:

13 I will bring that to the attention of the Flood
14 Management and Brian White and get back to you.

15 BOARD MEMBER BURROUGHS: That would be great.

16 PRESIDENT CARTER: Yeah, I think we understand
17 that there's -- that particularly with legislation and
18 legislative strategy and whatnot, that's highly
19 confidential and we don't want to compromise that. So by
20 the same token, on bills such as 1796, it's -- that has
21 such a dramatic impact on us, in particular, this Board,
22 we would like to have more involvement in that. And we're
23 going to have to rely on the assistance of Scott and Nancy
24 to make sure that we structure that in a way where we
25 don't compromise your process and confidentiality.

1 DIVISION OF FLOOD MANAGEMENT ACTING CHIEF MAYER:

2 Okay.

3 PRESIDENT CARTER: Thanks.

4 VICE-PRESIDENT HODGKINS: And I need to learn
5 about not making flippant comments, because some of the
6 comments sometimes end up in the newspaper. And when I
7 said earlier about the Governor asking for our input, I
8 was intending to reflect the fact that the legislative
9 process is a tough one. Everything we do has to be done
10 in open session. And I think it's very difficult to mix
11 those two things together and successfully move the
12 legislative program. So that really was the nature of my
13 comment, and it was not well put.

14 PRESIDENT CARTER: Please continue.

15 DIVISION OF FLOOD MANAGEMENT ACTING CHIEF MAYER:

16 I will move on.

17 I will just touch briefly on critical erosion
18 repairs. Five new sites have been added to the list. We
19 now are up to 34 sites, I believe. And Don Kurosaka will
20 be up later to talk about that effort and correct me if
21 I'm wrong on the count.

22 We also have the draft Ayres report. I hadn't
23 seen the report yet, but I understand we're receiving it
24 today. And it does have 27 new critical sites. These
25 are -- in general they're separate from the PL 84-99 sites

1 that I spoke of. There is a little bit of duplication,
2 and we're working to resolve that. But it looks like
3 there's on the order of 22, 23 sites in the list that are
4 not already covered under PL 84-99 or current work efforts
5 that are already planned or underway. So these are the
6 sites that were previously existing, known, documented
7 critical sites, which have worsened to the point that they
8 are now critical.

9 This is simply a survey of the main stem
10 Sacramento River and maybe a couple of the major
11 tributaries. It is not a complete system surveyed by
12 Ayres. We've requested that they do a complete system
13 survey, which they have not done in the past. They will
14 be going back out in about a month or so and looking at
15 all of the system, all the other tributaries and the
16 bypasses for critical sites. So it is possible that in a
17 couple of months from now we will have an update and has
18 even more critical sites added to the list.

19 I'd like to talk to you a little bit about the
20 reorganization of flood management. And Lori here has a
21 handout showing the interim reorganization that we have
22 proposed and recently has been approved as an interim
23 reorganization.

24 The main point of this reorganization was to add
25 another office to the Division of Flood Management, headed

1 by a principal engineer. And we have appointed a
2 principal engineer in the position. His name is Mike
3 Inamine. And he's already a principal engineer for some
4 time in the Division of Engineering. And he's transferred
5 over to help us out as our flood mission continues to grow
6 and our resources continue to grow.

7 This new office will handle levee evaluations and
8 repairs and floodplain management. And it will have three
9 branches in it:

10 The first branch is an existing branch, the
11 Floodplain Management Branch. However, it's a pared down
12 Floodplain Management Branch. Currently the Floodplain
13 Management Branch under Ricardo Pineda not only has the
14 FEMA Assistance Programs and the floodplain Mapping
15 program in it, but it also has the Yuba-Feather Program,
16 as well as the Flood -- I think it's the -- well, it's the
17 Board's Permitting Section, Flood Project Integrity -- no,
18 excuse me, I've got the wrong name. The name slips me but
19 it's the section headed by Mike Mirmazaheri. And we're
20 breaking those two groups out of the Floodplain Management
21 Branch so that now that we have a lot of money for
22 floodplain mapping, we can have that branch focus most of
23 its efforts on floodplain mapping.

24 Out of AB 142 our expenditure plan calls for \$35
25 million for our floodplain mapping. And we will be

1 entering into numerous contracts with consulting firms to
2 begin an aggressive mapping program for the entire Central
3 Valley levee system for the state-federal lands protected
4 by the state-federal levees.

5 In addition to that, there will be a new branch,
6 Levee Evaluations and Repairs. And that branch will be
7 conducting the evaluations of levees beginning with the
8 urban levees. And we have carved out from AB 142 \$35
9 million to fund these levee evaluations. There are
10 approximately 300 miles of urban levees that are in our
11 state-federal system. And the definition is, it's an
12 urban levee if it were to fail it would flood 10,000
13 people or more. Using that definition, you have around
14 300 miles.

15 At a cost estimated at a little bit upward of a
16 hundred thousand dollars per mile to do the drilling and
17 engineering evaluations, the 35 million looks to be on the
18 order of the right amount for 300 miles of levee. And
19 I'll talk a little bit about that as I move on through my
20 presentation.

21 And the next branch is the Critical Repairs
22 Branch. This group will take over where Don Kurosaka and
23 his program -- where they wind down. Don Kurosaka and his
24 effort through this year have done a tremendous amount of
25 work and accomplished so much in these 29 sites and adding

1 5 more sites to that. But that group and Don himself
2 really came over on a temporary basis to provide this
3 assistance. And they'll be going back later this year.
4 And we needed a branch -- a new branch to take over this
5 effort.

6 In addition, this branch not only takes over the
7 Critical erosion Program but the PL 84-99 Rehabilitation
8 Program with the 102 sites. That branch of course will be
9 spending perhaps on the order of \$100 million over the
10 next year or two in accomplishing critical repairs, mostly
11 erosion repairs, but not entirely.

12 Another major point of this reorganization is
13 consolidation of our grant programs. We currently have
14 the Yuba-Feather Program, we have a Flood Corridor
15 Program, and we have a State Flood Control Subventions
16 Program. They're located in different offices at this
17 point. Under the reorg they will now be consolidated.
18 And it's especially important as we have AB 142 funds for
19 a new grant program, we intend to have \$50 million for
20 grants statewide for critical repairs. And that can be
21 administered by this group consolidated into a branch.
22 And it poises us very well, if a bond were to pass in
23 November -- and we have two bonds on the ballot -- and
24 there would be a lot of grant funding that would occur
25 under that, and this would be -- this branch would grow

1 obviously as we get more resources to administer bond
2 programs. But it's a good start in the right direction.

3 Any questions on reorganization?

4 SECRETARY DOHERTY: Pardon me. What happens if
5 the bonds don't pass?

6 DIVISION OF FLOOD MANAGEMENT ACTING CHIEF MAYER:

7 If the bonds don't pass, this reorganization in
8 my view is still sustainable. We have the AB 142 funding.
9 We also have a third year strategic budget proposal that
10 would add additional resources, including staffing and
11 funding, for us on baseline and one time. And then I
12 think -- I guess I'm a little bit of an optimist in this
13 regard. I think the Legislature's put forth a signal that
14 they think flood control and flood improvements to the
15 system are very important, and they gave us \$500 million
16 showing that. And I would tend to think without a bond
17 more funding may become available through a similar
18 process. Essentially pay as you go.

19 SECRETARY DOHERTY: When we continue to grow like
20 this, ten years down the road do you think that we'll see
21 any paring back, or will it just continue to grow?

22 DIVISION OF FLOOD MANAGEMENT ACTING CHIEF MAYER:

23 I don't think we'd continue to grow. Our
24 intention is really to stabilize the growth in a couple of
25 years and then use those additional resources and spread

1 them out over ten years, assuming the bond passes. And if
2 the bond doesn't pass this November, maybe a couple of
3 years later there'd be another bond on the ballot and we'd
4 see what happens then. But the intention's not to grow
5 every year, but rather to reach a level that we think is
6 sustainable.

7 And I should add, a lot of our funding will go
8 not towards additional staff but consulting work. And so
9 our growth is in two areas, additional staff and
10 consulting firms under contract to us.

11 BOARD MEMBER BURROUGHS: I have two questions.

12 On your chart here, is the green and the purple
13 the new positions?

14 DIVISION OF FLOOD MANAGEMENT ACTING CHIEF MAYER:

15 Yes. And I can tell you the meanings of those.

16 The purple are new positions that were approved
17 in the Governor's budget January 10th through the normal
18 budgeting process. The green were added late in the
19 process through the May revise for implementing AB 142.

20 And over on the far right on the second page
21 you'll see some pink positions. Most of them have been
22 filled, but there are still a few remaining. Those were
23 late additions in the May revise process for the
24 Subventions Program.

25 So we have 12 new positions possibly on the green

1 with the new funding?

2 DIVISION OF FLOOD MANAGEMENT ACTING CHIEF MAYER:

3 No, we actually got 25 new positions for AB 142;
4 14 of them came to Flood Management and 11 of them went to
5 Division of Engineering.

6 BOARD MEMBER BURROUGHS: What does that represent
7 in salary per year?

8 DIVISION OF FLOOD MANAGEMENT ACTING CHIEF MAYER:

9 Depends upon the classification, of course.

10 BOARD MEMBER BURROUGHS: Just in general for the
11 overall in new positions.

12 DIVISION OF FLOOD MANAGEMENT ACTING CHIEF MAYER:

13 I haven't done an average. But typically an
14 engineer I think starting, the engineers we're looking at
15 here, would be on the order of 60,000 a year.

16 BOARD MEMBER BURROUGHS: Well, I guess my
17 question wasn't really -- I wasn't interested in a
18 specific individual. Overall what was the new budget for
19 new employees -- new positions?

20 DIVISION OF FLOOD MANAGEMENT ACTING CHIEF MAYER:

21 We haven't done a tally of budget for new
22 positions.

23 BOARD MEMBER BURROUGHS: Thank you.

24 DIVISION OF FLOOD MANAGEMENT ACTING CHIEF MAYER:

25 I can get back to you what it is.

1 I'd like to talk on the levee evaluations
2 quickly. I mentioned \$35 million for that. We've put out
3 a request for qualifications back on September 1st. We've
4 received three statements on qualifications submitted to
5 us. And we've conducted the interviews, and I think we're
6 ready to make a selection.

7 The intention is to make a selection, negotiate
8 prices for the services to be provided, and then begin
9 drilling in October once the contract is awarded.

10 We've also developed a standard operating
11 procedure for the drilling program, worked out most of
12 these details with the Corps of Engineers. The intention
13 is to have the Corps of Engineers ultimately buy in to the
14 program what we're doing on the ground, evaluations that
15 follow, and eventually certify the work in the levees for
16 meeting design flows as well as hundred-year flood and
17 even 200-year flood, and that's the target.

18 Two unresolved issues at this point that we're
19 working on is that the Corps can only certify based on a
20 risk and uncertainty analysis. That can be problematic
21 sometimes because a levee that doesn't meet risk and
22 uncertainty analysis requirements may be very certifiable
23 according to FEMA certification requirements, which relies
24 on freeboard. And local agencies would very much like to
25 see us develop a program that is certifiable by FEMA, and

1 we agree with that. So we need to work that out with the
2 Army Corps of Engineers so that certification can be
3 achieved by them, hopefully without using risk and
4 uncertainty. And also some of the details of drilling
5 such as use of the cone penetrometer need to be worked out
6 to make sure that FEMA will be accepting of that drilling
7 technique.

8 I'd like to move on to sediment removal projects
9 and touch on them quickly.

10 BOARD MEMBER RIE: I have a question --

11 DIVISION OF FLOOD MANAGEMENT ACTING CHIEF MAYER:

12 BOARD MEMBER RIE: Yes.

13 -- on the levee evaluations.

14 Is the Corps going to participate in the funding
15 for the levee evaluations?

16 DIVISION OF FLOOD MANAGEMENT ACTING CHIEF MAYER:

17 To date, no, they do not have not have funding.

18 The Board two years ago requested in correspondence to the
19 Corps that the Board -- the Corps participate in the new
20 system evaluations, of both the Sacramento system as well
21 as the San Joaquin system. And that would include of
22 course detailed levee evaluations, exactly what we're
23 pointing right here for the urban levees at first. The
24 Corps doesn't have funding for this, and they have not yet
25 been able to reply affirmatively to our request for

1 participation. Ultimately they really should and this
2 should be a federal effort and handled jointly between the
3 state and the federal government.

4 At this point it's us. And, in fact, we're
5 likely to fund them for their participation to make sure
6 that we're complying with all the other requirements and
7 ultimately achieving certifiable levees.

8 BOARD MEMBER RIE: And traditionally the Corps
9 has funded those type of efforts. So where's the money
10 coming from?

11 DIVISION OF FLOOD MANAGEMENT ACTING CHIEF MAYER:
12 This is AB 142 funds.

13 BOARD MEMBER RIE: Are we -- is there a
14 possibility that we can get authorization from Congress to
15 reimburse us -- reimburse the state for partial costs to
16 do these evaluations?

17 DIVISION OF FLOOD MANAGEMENT ACTING CHIEF MAYER:
18 I think in the long run that's a possibility, a
19 distinct possibility for much of the work. I think the
20 way that would happen though would be under Section 104 or
21 Section 211. You have to have approval for that before
22 you do the work. I don't think we're going to have such
23 approvals before we're doing this work. I think in the
24 long run though that's a distinct possibility, because
25 we're only talking right now about the first 300 out of

1 our 1600 miles that we need to evaluate.

2 It could also be done through a special act of
3 Congress. They could certainly say -- could direct the
4 Corps that it will reimburse us and authorize that. But
5 that would be very unusual.

6 BOARD MEMBER RIE: So are you guys working on
7 that, trying to get some federal participation?

8 DIVISION OF FLOOD MANAGEMENT ACTING CHIEF MAYER:

9 I would say, yes, we've raised the issue. I
10 guess I can't -- I can't say exactly what our plan and
11 schedule and the details of how we're pursuing that
12 though.

13 BOARD MEMBER RIE: Okay. It would be interesting
14 to hear about that some more at a later date.

15 DIVISION OF FLOOD MANAGEMENT ACTING CHIEF MAYER:

16 Okay.

17 BOARD MEMBER RIE: Thanks.

18 VICE-PRESIDENT HODGKINS: When you -- let me ask
19 you if you agree with this. I think that the effective
20 way to lobby for those kinds of funds is to engage the
21 local districts and get the local districts to engage
22 their congressmen and get their congressmen to do the
23 work, even if it's not in the budget, to get those funds
24 approved in the appropriations that come basically out of
25 energy and water by and large back there. That's the way

1 the Sacramento Area Flood Control Agency has always worked
2 with them. They spend a fair amount on lobbyists; because
3 in effect our legislators to get those kinds of
4 appropriations through Congress need the assistance of
5 those lobbyists.

6 Do you disagree with that, Rod?

7 DIVISION OF FLOOD MANAGEMENT ACTING CHIEF MAYER:

8 I absolutely agree with you. In my experience
9 it's the local agencies through their congressional
10 representatives that are most successful.

11 VICE-PRESIDENT HODGKINS: I mean Congressman
12 Matsui probably won't pay any attention to Rod Mayer. But
13 she certainly will to the Chief Executive of the Flood
14 Control Agency and the local elected officials. And you
15 have a situation I think where Congress is struggling over
16 what they do with the money. Everybody wants to bring it
17 home into their district. And you've got to get the
18 locals together to work their congressman together to do
19 the appropriations. And it can be done, but it takes
20 concentrated effort.

21 BOARD MEMBER BURROUGHS: Mr. President, a
22 question.

23 PRESIDENT CARTER: Go ahead.

24 BOARD MEMBER BURROUGHS: In this new -- issue of
25 all this new funding and going towards levee repair

1 critical sites, is there some pre-negotiations on waiving
2 some of the high cost for mitigation?

3 DIVISION OF FLOOD MANAGEMENT ACTING CHIEF MAYER:

4 No. We do need to comply with all the
5 environmental laws. And we are working with the resource
6 agencies to streamline the work in the permitting and to
7 reach agreement so that the work can proceed uninhibited.
8 However, the repairs, for instance, for the erosion
9 repairs, they do incorporate many environmental features
10 that have been requested by the local agencies during the
11 construction on-site, minimizing our off-site mitigation
12 bill. But I don't think they would be willing to in
13 essence allow us to do things that would be jeopardizing
14 to endangered species.

15 BOARD MEMBER BURROUGHS: I understand the
16 endangered species. But I also am concerned about the
17 public safety. And if we -- if we use a large portion of
18 the money just for mitigation that actually never goes to
19 repairing the levees, it would seem that in the best
20 interests of public safety and for people that we are
21 efficiently spending the money. And since it is critical,
22 I would think that there is some room for negotiations, as
23 we were able to witness with the Corps on some previous
24 projects where they waived mitigation fees.

25 DIVISION OF FLOOD MANAGEMENT ACTING CHIEF MAYER:

1 Well that's -- that has not been the tenor of our
2 discussions. Of course we don't want to over-mitigate or
3 mitigate for more than what we need to. But the real
4 tenor has been how can we work together to get this work
5 done. We understand that there's significant mitigation
6 costs associated with the work. We want to minimize it,
7 but we understand there is a cost.

8 BOARD MEMBER BURROUGHS: I guess the common-sense
9 approach that I come to really imploring you when these
10 negotiations go through is that -- it seems to me that any
11 environmentalist who cares about the environment would not
12 want to over-plan elderberries in one location. And so I
13 don't know how many elderberries are necessary for the
14 environment. But it seems like we should really come to
15 the able with a common-sense approach when it comes to
16 spending this money for mitigation.

17 Thank you.

18 DIVISION OF FLOOD MANAGEMENT ACTING CHIEF MAYER:

19 Okay. And Don Kurosaka may have comments on this
20 beyond what I've had. He's been much more intimately
21 involved in it for the 29 sites.

22 I'd like to wrap up with a discussion of sediment
23 removal projects. After -- it's been about five years of
24 planning and budgeting and stops and starts and -- we're
25 now at the point where we're actually moving soil out of

1 Fremont Weir. And it's a -- for me it's a very good
2 feeling. We're moving a million cubic yards over the next
3 two months, and we should be done by November 1st. The
4 actual construction effort began in late August and the
5 soils began moving in early September.

6 Next up for next year:

7 Sycamore Creek near Chico, 50,000 cubic yards
8 needs to come out of that channel. We've been working on
9 that one for a number of years. And it's been very
10 difficult navigating the environmental compliance issues.
11 We think we're underway towards positioning ourselves to
12 be ready to do the work next summer. And that also will
13 be very satisfying, to complete that effort.

14 And then of course the big one, Tisdale Bypass.
15 We're performing the environmental compliance right now,
16 preparing the documents. And with the AB 142 funding that
17 we've set aside, which is \$5 million, in our tentative
18 plan, which supplements general fund allocations for
19 sediment removal, we should be well poised to remove the
20 two million plus cubic yards of sediment from Tisdale
21 Bypass next summer.

22 Further down the road would be Bear River, where
23 there is also a large accumulation of sediment. We are
24 now in the modeling phase, incorporating survey data and
25 changes in the channel cross sections as a result of a

1 walnut orchard being removed and a new setback levee,
2 incorporate that into the model to get the modeling right
3 to identify the reaches where working is to occur and how
4 much sediment needs to come out. And that is then the
5 basis for design and for environmental permitting. That
6 will be 2008 or 2009.

7 And, similarly, we have the same case essentially
8 for Cherokee Canal a little bit further down the road.
9 And we need to quantify that with modeling studies and use
10 of survey data that's under way now.

11 Any questions before we turn it over to Don?

12 Thank you very much.

13 DIVISION OF FLOOD MANAGEMENT ACTING CHIEF MAYER:

14 Okay.

15 PROJECT MANAGER KUROSAKA: Good morning. My name
16 is Don Kurosaka. I'm the Project Manager for the
17 Emergency Levee Erosion and Repair Project.

18 I don't have a written presentation or a
19 PowerPoint today. We've been extremely busy out in the
20 field trying to get these 29 sites completed. As you
21 recall, the Corps is responsible for repairing 10 of these
22 sites and the Department is responsible for repairing 19.

23 All these sites are in some form of progress
24 under construction. Overall we're about 50 to 60 percent
25 complete on all these sites together collectively. There

1 are three sites that the contractor has completed and has
2 requested a final inspection on. And those three sites
3 are on Cache Creek. So that final inspection is to take
4 place this Monday. So we'll see how that goes.

5 SECRETARY DOHERTY: That was where the setback
6 levee was?

7 PROJECT MANAGER KUROSAKA: Correct.

8 SECRETARY DOHERTY: I thought that their board of
9 supervisors or somebody voted not to allow it. But they
10 went ahead and repaired it?

11 PROJECT MANAGER KUROSAKA: Well, I think that --
12 I think the majority of the county was supportive of going
13 ahead with the project. So I think --

14 SECRETARY DOHERTY: So all three of those sites
15 have been repaired?

16 PROJECT MANAGER KUROSAKA: Correct. We did have
17 some problems in trying to find a borrow site, but that
18 was ironed out.

19 So we have construction going on on essentially
20 all these sites in some form or another. There are two
21 sites that we have just begun doing some clearing work.
22 But essentially work is -- in one form or another is going
23 on on all sites. We have had our construction problems
24 and issues with getting certain things -- one of the
25 things that we have been facing in the Pocket area is

1 trying to find soil for the earth fill. So the contractor
2 has been having a problem in getting -- getting those
3 sites completed. So we hope to get those Pocket sites
4 back under construction next week.

5 As Rod had mentioned, there is not five
6 sites -- well, let me correct that. We did an assessment
7 a couple months ago where we evaluated 19 sites that were
8 brought before us for review as critical sites. Our
9 consultant, DRS, completed their analysis and came up with
10 five sites that they're recommending for repair. Three of
11 these sites are project levee sites. Two of them are
12 non-project levees. So at this time we're still trying to
13 come up with a program to repair the non-project levee
14 sites and we're going forward with the repair of these
15 remaining three project sites this year under this current
16 program.

17 There is an additional site that the Corps
18 evaluated under their 2006 Ayres study this year, which is
19 in the Pocket, which they are electing to add to these 29
20 sites. So there will be a total of four new sites that
21 will be added to the list of 24, which will make it 33
22 sites. So these three sites will be added by change
23 orders to our current construction contracts.

24 If you want the specific locations, I can give
25 you that.

1 PRESIDENT CARTER: Yes, please.

2 PROJECT MANAGER KUROSAKA: Three of the sites are
3 on the Sacramento River. The three sites on the
4 Sacramento River are at 43.3 on the right, 65.1 on the
5 right, and 53.1 on the left. And the last one is on the
6 Butte Creek in Unit 2 at Levee Mile 14.

7 So we are currently in the permit process with
8 resource agencies. The resource agencies are indicating
9 that they'll be amending our existing permits to provide
10 for the construction of these sites. So we hope to begin
11 construction hopefully within the next few weeks.

12 In my previous presentation I gave you a budget
13 of \$172 million for construction of these sites. The
14 Corps has some funding and they're using about \$16 million
15 of that new funding for the repair of these sites. So
16 we're currently still at that budget level. We've spent
17 to date somewhere around 40 to 50 percent of those funds
18 thus far. So those funds will be coming out of the AB 142
19 funds.

20 Any questions?

21 PRESIDENT CARTER: Thank you, Mr. Kurosaka.

22 The four additional sites, so there's 33 sites at
23 this point?

24 PROJECT MANAGER KUROSAKA: Correct.

25 PRESIDENT CARTER: Your plans are to repair those

1 before the next flood season?

2 PROJECT MANAGER KUROSAKA: Correct.

3 PRESIDENT CARTER: So it seems like completion
4 November 1?

5 PROJECT MANAGER KUROSAKA: Correct. That's --
6 you have to be negotiated with construction contractors.
7 But the contractors seem to be pretty acceptable to taking
8 on additional work.

9 PRESIDENT CARTER: Okay.

10 PROJECT MANAGER KUROSAKA: So that's our
11 objective, to get it completed on the same time schedule
12 as the other 29 sites.

13 PRESIDENT CARTER: Okay. And maybe this is a
14 question more for Mr. Mayer than for you, Mr. Kurosaka.
15 But the PL 84-99 102 critical sites, the -- and we're
16 contemplating make a 13 plus million dollar payment to the
17 Corps to start that -- are those scheduled for completion
18 before this flood season as well?

19 I guess my question is -- the definition of
20 "critical" is that they ought to be repaired before the
21 next flood season. Are they going to be?

22 DIVISION OF FLOOD MANAGEMENT ACTING CHIEF MAYER:

23 That's the intention. However, when we find
24 critical sites late in the season, not like the ones that
25 Don began with where we had all year to work it, now we

1 have a much shorter window to work the sites, we don't
2 think it's realistic that sites are going -- all these
3 sites are going to be repaired before flood season.
4 What's more realistic is that work will continue right
5 through November and December, much as it occurred in 1997
6 when we had to repair 550 sites. We didn't stop this
7 because flood season started. We just kept going. And
8 that's what I think is going to happen. With these first
9 sites for 13 million, I think it's likely that we'll
10 finish right around the beginning of flood season. But
11 there's more to come.

12 PRESIDENT CARTER: Thank you.

13 VICE-PRESIDENT HODGKINS: I'd like to say that I
14 think it's an incredible accomplishment to actually have
15 gotten out and gotten work under way and be in a position
16 to finish this much work in, in effect, one year. That's
17 a real accomplishment from the standpoint of DWR and I
18 guess the Corps as well that's been involved. And I just
19 want to congratulate you. I know how difficult it is to
20 move projects forward.

21 I also would like to ask a detail question, which
22 I don't necessarily expect you to answer, but I'd like you
23 to help me follow up with somebody. But I ran into a
24 person who was doing some of the environmental restoration
25 on one of these sites somewhere up by Colusa. He's in

1 effect being told he has to truck the water in to irrigate
2 the plants, but understands that there might be a way that
3 he could get the Department's permission to pump water out
4 of the river.

5 Is it possible off line to pursue that a little
6 bit?

7 PROJECT MANAGER KUROSAKA: Yes.

8 VICE-PRESIDENT HODGKINS: Thank you.

9 PROJECT MANAGER KUROSAKA: I do want to mention,
10 I guess one of the things that we're contemplating a
11 change on is -- we had hoped to get all the plantings in
12 with the erosion fixes on this November 1st deadline. But
13 one of the things that -- I guess one of the comments that
14 we had got from one of our contractors is that it might be
15 better to wait until this coming spring. And so that's
16 one of the things that we are considering doing.

17 But water supply is an issue that we have left up
18 to the contractor to acquire for these plantings. And our
19 thought was that he would negotiate with someone
20 existing -- that has existing water rights to pump water
21 out of the river or has both water rights on the land.

22 PRESIDENT CARTER: Okay. Mr. Kurosaka, if one of
23 the Board members wanted to visit any one of the sites,
24 how would we go about doing that? Can we just walk on?

25 PROJECT MANAGER KUROSAKA: No, it would probably

1 be wetter to have some type of guide. Just let us know
2 and we'll try to do that.

3 PRESIDENT CARTER: Okay. All right.

4 PROJECT MANAGER KUROSAKA: Because we do go out
5 on a regular basis ourselves.

6 PRESIDENT CARTER: Okay. Very good.

7 Okay. So Mr. Punia said that he can facilitate
8 any site visits that any of the Board members want to have
9 on that.

10 I just remind you that if there are more than
11 three, then it's got to be a publicly noticed meeting. So
12 I would encourage fewer than three to be on those visits.

13 Okay. Very good.

14 PROJECT MANAGER KUROSAKA: Thanks.

15 PRESIDENT CARTER: Thank you very much.

16 At this time why don't we take a brief recess.
17 We'll reconvene at 11:15 here.

18 (Thereupon a recess was taken.)

19 PRESIDENT CARTER: Okay. Ladies and gentlemen,
20 we can go ahead and continue with our agenda for the day.

21 We just finished up the Department of Water
22 Resources report, Item 6.

23 We are on to Item 7, which is State of Emergency
24 - Board Actions.

25 So, Mr. Punia.

1 GENERAL MANAGER PUNIA: Good morning. Jay Punia.

2 This report is to share with you what actions the
3 Rec Board staff has taken to facilitate the projects under
4 the emergency proclamation.

5 The Board has delegated the General Manager to
6 take these actions to facilitate and expedite those
7 projects, based upon the Resolution 06-08.

8 A variance was issued to special condition of an
9 existing River Partners' permit for the Del Rio Wildlands
10 Restoration property by the General -- Acting General
11 Manager on July 27th. This variance allowed Department of
12 Water Resources to transplant elderberry plants taken or
13 removed from the 29 critical sites that are currently
14 under construction as explained by Don Kurosaka.

15 The Rec Board staff also issued a permit to
16 Reclamation District 1000 to repair a portion of the
17 Sacramento River East Levee located at River Mile 75.1 in
18 Sacramento County. The Department of Water Resources
19 determined that the project falls under the Governor's
20 proclamation.

21 And then Rod mentioned our cooperation agreement
22 was signed by the U.S. Army Corps engineers for
23 transferring \$13 million to the U.S. Army Corps of
24 Engineers to repair sites under Public Law 84-99.

25 SECRETARY DOHERTY: May I ask a question?

1 GENERAL MANAGER PUNIA: Yes.

2 SECRETARY DOHERTY: On this RD 1000, was it a
3 pump that caused the problem or was it just a natural
4 erosion?

5 And second question: The pumping station will be
6 rebuilt under separate contract. Will that be with
7 emergency funding or will that be that district funding?

8 GENERAL MANAGER PUNIA: I think I'll pass to
9 Steve or Dan to respond to this.

10 CHIEF ENGINEER BRADLEY: The problem has been
11 inherent in the levee in the area for some time. They had
12 quite a bit of problems last year in flood fighting it.
13 So they have known problems. Whether it's a problem
14 caused by the pump station or not, I don't know. But they
15 are removing the pump station. To my knowledge, the pump
16 station is not going to be rebuilt with emergency funds,
17 that that's an RD 1000 project to come in the future.

18 SECRETARY DOHERTY: Thank you.

19 GENERAL MANAGER PUNIA: In addition to this
20 cooperation agreement with the U.S. Army Corps of
21 Engineers, Rec Board staff also certified to the U.S. Army
22 Corps of Engineers that it has required land easement and
23 right of way for several sites to be repaired under Public
24 Law 84-99 Rehabilitation Program.

25 That's it. Thank you.

1 PRESIDENT CARTER: Just for the rest of the
2 Board's knowledge and staff's knowledge and DWR's
3 knowledge, I received a call from the adjacent landowner
4 to Del Rio with regard to the variance that the Rec Board
5 did issue regarding their Permit No. 17659. The
6 landowner's name is Eric Larraby. And they were very,
7 very concerned about the planting of the elderberry bushes
8 in the property, particularly in light of the geography,
9 topography and hydrology there. And particularly
10 concerned about propagation and concerned about River
11 Partners' intentions and past actions, that they've not
12 had good experiences with them.

13 So just so everybody knows, Mr. Larraby said that
14 he was going to try and make it today, and evidently he
15 was unable to attend. But just so you know, there's some
16 serious concerns with the adjacent property owners there.

17 SECRETARY DOHERTY: They did transplant those
18 elderberry bushes in a long row on the Del Rio property.
19 It's being watered at the present time. But there was no
20 order to watch or to care for them beyond simply
21 transplanting them. So they may not even be there in a
22 year from now.

23 BOARD MEMBER BURROUGHS: Could you expand on some
24 of the problems they've had in the past.

25 PRESIDENT CARTER: I can't at this time.

1 BOARD MEMBER RIE: Is Mr. Larraby planning to
2 appeal the variance that was issued on the permit?

3 PRESIDENT CARTER: I can't speak for him. I
4 don't know if he -- he did not mention that he was
5 planning on appealing it.

6 BOARD MEMBER BURROUGHS: Are the problems some
7 possible future litigation?

8 PRESIDENT CARTER: I don't know that.

9 Mr. Bradley.

10 CHIEF ENGINEER BRADLEY: Yes. The Del Rio site
11 actually is a site that's under permit to the Reclamation
12 Board. We issued a permit probably about three years ago.
13 The total site's around 230 acres. We issued a permit
14 that covered about a hundred and -- I don't know -- thirty
15 acres of that, 125 acres, forest and restoration. That
16 permit did not allow the permit -- the planting of
17 elderberries.

18 We now have a permit that's coming forward that's
19 with staff at the moment requesting restoration planting
20 on the other about 90 to 100 acres. It does request
21 elderberry plantings. And Mr. Larraby has not endorsed
22 the permit as -- or not him per se, but the maintaining
23 agency in that area, has not endorsed the permit at the
24 moment.

25 PRESIDENT CARTER: Okay. All right. Any other

1 questions?

2 Very good.

3 Thank you very much, Mr. Punia.

4 GENERAL MANAGER PUNIA: Thank you.

5 PRESIDENT CARTER: At this time we'll move on to
6 Item 8, Three Rivers Levee Improvement Authority Monthly
7 Report.

8 Mr. Brunner. Welcome.

9 MR. BRUNNER: Thank you.

10 Good morning, President Carter, members of the
11 Board. I am Paul Brunner, the Executive Director of Three
12 Rivers. And it's a pleasure to be here today.

13 A lot has transpired since the last time I came
14 here in June for Three Rivers. And I'm going to walk
15 through the various phases for you and describe what has
16 happened.

17 Parts of the month -- the couple months since I
18 was here last have been a little turbulent for Three
19 Rivers. I think we've gotten through the turbulence and
20 we're well on our way now in completing the levees and
21 doing what we've committed to do.

22 I have a map here that displays the Three River
23 Project, Marysville being here, Highway 70 being here, and
24 65 is up in this area, Yuba River, Feather River and Bear
25 river. This is the Western Pacific Interceptor Canal

1 here.

2 Phase 2 I'll address first, what has happened on
3 that. And that's the Western Pacific Interceptor shown in
4 green here. This green area here at Yuba is really Phase
5 2. And a little bit of the Bear River. Right down in
6 through here is on the Bear.

7 But I'm glad to say that -- the part of the
8 project on Phase 2, that we're still on schedule, we're
9 making progress, and we're nearing the end of the
10 construction season. And the project should be completed
11 by the middle of October, in that time period, and wrap
12 that up.

13 We do have one small issue that has come up on --
14 has been modified, the encroachment permit that was issued
15 on the Bear, then in through here where we interface with
16 CalTrans for a seepage berm. And we're working with your
17 staff, DWR staff to either get a -- modifying a permit
18 that we have now or new encroachment permit. And we need
19 to have that in place by 1 October so that we can move
20 forward on that project. So hopefully that happens.

21 On Phase 3, on the construction, this is down
22 here and the Bear River down through here. This is our
23 setback levee that is well under way. And I'm really
24 pleased to announce that the embankment is now done. It
25 is in place. We're still removing the old levee and

1 working with your staff as to where that soil goes into
2 the future.

3 We're now in the point of just kind of putting in
4 the wrappings on the particular site, things like patrol
5 road aggregate, the seepage -- the relief wells, some of
6 the inlet structures, finalizing them. We did also remove
7 the walnut orchard that's completely gone now. They'll be
8 finalizing the chipping of some of the trees.

9 We did award the contract with River Partners.
10 And I was pausing there from the discussion that we just
11 had from the previous presentation under River Partners on
12 that. But we did award that contract. And we expect that
13 work to start really potentially next week. They've been
14 collecting seeds and ready to plant and our preferred
15 particular site there. This is the 300 acres setback
16 area.

17 Yes.

18 BOARD MEMBER BURROUGHS: Did you have any other
19 applicants for that project?

20 MR. BRUNNER: I believe we considered some.
21 Larry Dacus from MBK is project manager for that.

22 Do you know who else we may have had --

23 MR. DACUS: We've been --

24 PRESIDENT CARTER: Would you please identify
25 yourself for the record.

1 MR. DACUS: My name's Larry Dacus with MBK
2 Engineers, Design Manager with Three Rivers Levee
3 Improvement Authority.

4 We did have two applications. We asked for
5 qualifications from two, River Partners and Habitat
6 Restoration Research -- I think -- I'm stumbling on the
7 name there. I can't quite remember who the other firm
8 was. But another firm in the area that does restoration.

9 We chose River Partners to do the work on this.

10 MR. BRUNNER: If you'd like, we could get back to
11 you and provide that input to you.

12 BOARD MEMBER BURROUGHS: That's okay.

13 MR. BRUNNER: So that contract is in place, and
14 River Partners will start working very soon.

15 Noted for the Board is that we do plan to have
16 some type of ribbon cutting event in the month of October
17 for the setback -- we believe this is a significant event
18 to have completed a major project like this, a setback
19 levee itself -- sometime probably the in middle part of
20 October. And that date is not yet set, and we'll be
21 sending out invites.

22 This is a neat project area to come and visit.
23 And I would encourage folks, if you'd like -- and we've
24 extended the invite before for our levees -- is if you'd
25 like to come, come visit, go on the tour and see what has

1 been done out there for this particular project.

2 The next part of the project I'd like to talk
3 about is the Feather River, Phase 4, which is this river
4 area right through here. It's a 12-mile stretch. And
5 this is the area that we're currently under design. We
6 believe that this area right in through here will be a
7 strength-in-place design fix that GEI's working on.
8 Probably construction in the 2007 time period. The middle
9 part in here is where we're considering doing an
10 alternative, a setback levee. There's an environmental
11 impact report out looking at the different design
12 alternatives for that, and then environmental work on that
13 right now.

14 As GEI was doing the design work and doing an
15 alternatives studies, particularly between doing the
16 setback here or strength in place here, they found in this
17 area here a design glitch. And I word it like that
18 because during the January time period of this year there
19 was high water and we did see some water coming up through
20 boils. They came from the other side -- land side of the
21 levee, which caused them to reconsider what was going on
22 there. This is an area that Corps of Engineers as of 1997
23 flood event that happened in there had fixed with a slurry
24 wall. So at that point our consultant came forward, did
25 some of our core borings. And we got back results, really

1 just right after I got done talking to you at that meeting
2 in June, and we were then confronted with a significant
3 cost potential increase to our project as to what we were
4 going to do with that.

5 That cost increase did cause turbulence to go on
6 within our program, which we eventually worked through
7 over the last couple months with the developers, and also
8 worked very diligently with DWR in working with AB 142
9 funds and a commitment with that, and potentially a
10 combination of 84-99, to use some funding from that.

11 So we did get some commitment from DWR to help
12 support for our project in the future. And that's really
13 dependent upon some of the actions that they're working on
14 that Rod was talking about earlier for that. And we
15 appreciate their support in that area.

16 One of the most significant things that came from
17 this project was in the end of August we were able to sit
18 down with Corps of Engineers representatives that did the
19 previous design and fix for the site, along with our
20 consultant and DWR reps, and work through what is the fix
21 that's needed at the site, at least have the open
22 discussion for it.

23 And most likely the overall cost increase that
24 was being proposed by GEI will come down in cost,
25 hopefully significantly. And I should have the final

1 results of that in around the October time period -- late
2 October.

3 But there was enough effort between the design
4 work, the consultant work that we had, the discussions
5 that took place, the internal commitments from the county,
6 from our developers, and also the support that was shown
7 from the state, that the landowners did go forward and
8 they did sign the second funding agreement. They
9 committed to \$135 million commitment for our program to
10 complete the project, which this is a major step. And
11 they also funded the first escrow agreement, which is the
12 \$20 million to move forward in our project, which is a
13 very significant event for us. So at that point now,
14 we're moving forward with Phase 4 with the commitment to
15 complete the project.

16 But there for a while it was rocky as we worked
17 through the costs. And so it was very significant for us
18 and we did make that happen.

19 BOARD MEMBER RIE: I have a question.

20 SECRETARY DOHERTY: Yes, I have a question.

21 Oh, no.

22 PRESIDENT CARTER: Ms. Rie.

23 SECRETARY DOHERTY: I'm sorry.

24 BOARD MEMBER RIE: I was just curious. What
25 exactly was the problem that you found?

1 MR. BRUNNER: Well, what they found was that
2 potentially the slurry wall that was for this mile stretch
3 was not really anchored into a clay layer and that there
4 was water coming up underneath that, which would be
5 underseepage problem in that area and still cause a
6 problem in the area.

7 When you look at the soil borings and the
8 profiles, there may be a concern there. I know GEI has a
9 concern with that. The Corps was looking at their
10 borings. And a little bit of difference between what they
11 had. But potentially it's not really anchored into a
12 confining lens or the water would still come through,
13 which is a concern.

14 BOARD MEMBER RIE: So are they going to have to
15 come out?

16 MR. BRUNNER: Well, the slurry wall won't come
17 out. But the redesign of the fix, I mean we had a -- GEI
18 had proposed a very elaborate fix. Most likely we'll have
19 an extended seepage berm, is my guess, that will go into
20 the site that will help fix this particular part of the
21 levee. Then this is where we'll get into -- in fact, we
22 already are in discussions with the Corps since this is --
23 was originally fixed with the Corps as to the cost, the
24 reimbursements, perhaps it's an expanded PL 84-99
25 expenditure as part of the discussions that we've been

1 having with DWR about expensing and using some AB 142
2 funds to work the project. Some way of trying to fix this
3 particular part of the levee.

4 There's another mile stretch that GEI also
5 identified on the Feather that may have a similar problem
6 on it. So at the same time we're looking at that, which
7 would represent a significant cost.

8 There was a question --

9 SECRETARY DOHERTY: Couldn't you put another
10 slurry wall down deeper?

11 MR. BRUNNER: Potentially you could. I mean that
12 would be an additional cost to do. And there may be a
13 better way to fix it through the seepage berm then. And
14 if you don't hit the confining layer, that the slurry wall
15 really matches what you need to meet this design.

16 In this particular -- there's bunch of river
17 bottoms in this area, sand and gravel lenses, that the
18 Feather River's built over the levee in that concurrent
19 one. And it may not be really all that viable in a
20 stretch of the Feather River to do that.

21 So the design engineer's proposing to do some
22 other design, this large seepage berm.

23 SECRETARY DOHERTY: So at the point where it
24 turns the corner and starts north on the Yuba, the
25 Feather -- the Bear has met the Feather, I meant. The

1 Bear and the Feather come together, correct?

2 MR. BRUNNER: Bear and the Feather come together
3 here.

4 SECRETARY DOHERTY: Yes, yes.

5 MR. BRUNNER: The area that we're talking about
6 is up here.

7 SECRETARY DOHERTY: Right there. But as you go
8 towards that point, are there not already seepage berms
9 there?

10 MR. BRUNNER: There are -- part of the original
11 fix there was a seepage berm. This would be an expansion
12 of that.

13 SECRETARY DOHERTY: So the seepage berm is still
14 there?

15 MR. BRUNNER: Yes.

16 SECRETARY DOHERTY: And then just north of that
17 there's that banana-shaped piece of land. And there's
18 some numbers that I can't read from here.

19 Yeah, that -- that piece of land that's outlined
20 in black.

21 MR. BRUNNER: Okay.

22 SECRETARY DOHERTY: Now, is that orchards or is
23 that a seepage berm?

24 MR. BRUNNER: It would be hard to tell
25 without -- there is agricultural property up and through

1 that area.

2 SECRETARY DOHERTY: So you mentioned that you
3 might put some more seepage berms along through there --
4 or a setback levee. Excuse me. You said a setback levee.
5 Well, now, is that land all owned by the project?

6 MR. BRUNNER: This land from between -- for the
7 setback between --

8 SECRETARY DOHERTY: -- between the black levee --

9 MR. BRUNNER: You mean here to here?

10 SECRETARY DOHERTY: Yes. Is that all owned by
11 the project?

12 MR. BRUNNER: It currently is not. So part of
13 the option that we have for the setback levee alternative
14 is to purchase that property for the setback. It's about
15 1600 acres that we would need to acquire if we did the
16 setback alternative.

17 SECRETARY DOHERTY: Have you talked to the people
18 along there?

19 MR. BRUNNER: They are aware of the issue of an
20 alternative being there. It's in our draft environmental
21 impact report.

22 The issue that we have on taking that option is
23 really the cost of the land that would come through that.
24 When we acquired property down here for this setback, we
25 did that through eminent domain. And the cost there is

1 still in Court. That court case is I believe in the March
2 time period where it will be settled. And the decision on
3 that will probably have some bearing on the property costs
4 up here as to what the final resolution will be.

5 BOARD MEMBER BURROUGHS: Question.

6 When was the slurry wall project completed?

7 MR. BRUNNER: It was completed -- I don't have
8 the exact date, but it was after the 1997 event.

9 BOARD MEMBER BURROUGHS: So it's been relatively
10 a few years since --

11 MR. BRUNNER: It's been relatively recent, yes.

12 BOARD MEMBER BURROUGHS: What was --

13 MR. BRUNNER: In fact, during the initial phasing
14 of a project, in discussions with the Corps, the section
15 of the levee really was considered to be sort certifiable
16 from their perspective. And the cost is -- what we're
17 looking at right now or what we may have to incur is
18 really a brand new cost to the project, and that's what
19 cost is hurting us, is that we had this essentially a
20 surprise that came into our program.

21 BOARD MEMBER BURROUGHS: That's very unfortunate.

22 What lesson was learned here? Could there have
23 been anything that was prevented? Is there actually a
24 mistake? You mentioned that it didn't have clay soil to
25 anchor into. How deep is the clay soil?

1 MR. BRUNNER: Well, when you -- in other portions
2 of the levee there are clay. And I think when the
3 engineer in the field was looking at the site, talking to
4 the Corps representative, there was a clay lens, of which
5 the soils engineer reported back. And they believe that
6 they did anchor it in there to the slurry wall. In
7 talking to the Corps, I think they would still say that
8 they believe that's true.

9 I think the issue comes here is your amount of
10 field reconnaissance or borings that you take just won't
11 really verify what the fill conditions are. And you do
12 spend -- it's really a factor of that. I mean you go
13 through and -- and Mr. Mayer was talking about that about
14 the design criteria that you go through. One boring per
15 thousand feet or whatever you take. If you have a winding
16 river bottom, you're really trying then to pinpoint the
17 geology below ground, and you don't have a clear road map.
18 So it's a function of how many data points you take. And
19 I think that's a lesson learned, is to look at that. And
20 then you need to use your consultant engineering expertise
21 to design and know whether or not they have enough data.

22 BOARD MEMBER BURROUGHS: Do you know what the
23 cost was for the construction of that slurry wall?

24 MR. BRUNNER: I do not. But I could get that.

25 BOARD MEMBER BURROUGHS: Thank you.

1 MR. BRUNNER: I mentioned also on the Feather
2 that we had the CEQA document out for the alternatives.
3 The public comment period for that closes on September
4 18th. And this is also an opportunity for the residents
5 to comment on the setback levee and the alternatives being
6 proposed for that particular stretch of the river.

7 BOARD MEMBER BURROUGHS: Where will that location
8 be at and what time? September the 18th?

9 MR. BRUNNER: The -- I missed your question.

10 BOARD MEMBER BURROUGHS: You mentioned public
11 comment availability on September the 18th. I just wanted
12 to know the location and the time.

13 MR. BRUNNER: The meeting for the public
14 notification actually was already occurred -- or the
15 public hearing for comment occurred. We're now just --
16 the 18th is when the final period is for comments to come
17 in. The meeting took place in Yuba County in the
18 Government Center.

19 BOARD MEMBER BURROUGHS: Is there an address for
20 that?

21 MR. BRUNNER: Yes, there is. It's -- it would be
22 my address. As the public comments are coming in, I can
23 provide that to the Board.

24 BOARD MEMBER BURROUGHS: Yes. Thank you.

25 MR. BRUNNER: The last item -- or the next item

1 I'm going to talk about is the Yuba Phase 4, which is this
2 stretch right here. The contract for this was awarded,
3 and it was awarded right around the time in June when I
4 came forward for you on that project. And the actual
5 start of the project was somewhat impacted -- or quite a
6 bit impacted by the funding issues that we went through.

7 The work was -- I did issue a notice to proceed
8 on the project last week -- or actually two weeks ago now.
9 And it is well underway. The levee is coming down. And
10 they're performing the slurry wall installation as we
11 speak. And they are working 24/7 to accomplish that work
12 before the bad weather comes.

13 So that's making good progress.

14 There is one issue that has come up -- and it may
15 cause us to come back to the Board next meeting to ask for
16 a decision from you -- is that when we did get the
17 encroachment permit for this project, one of the
18 conditions in it talked about requiring us to not raise
19 the levee beyond the 1957 flood standard level that was in
20 a Corps study. That particular level does not meet the
21 200-year standard that we were trying to achieve and then
22 we have our project and are designed to go to. So what
23 we're doing is rewriting hydraulics, working with staff to
24 meet that goal. We have talked to DWR staff. And maybe
25 not fill, but they have the authority to issue and grant

1 that.

2 So we'll rerun the hydraulics and come back and
3 present the case to build the levee for the Yuba in that
4 area just to a 200-year standard, which our design is for.

5 Our overall average height raising for that levee
6 is three-tenths of a foot that that represents.

7 VICE-PRESIDENT HODGKINS: Paul, I'm going to -- I
8 have engaged in many conversations with our attorney about
9 the liability issue associated with deviating from the '57
10 profile. And I think that a key issue here in getting
11 through whether or not that higher levee is acceptable is
12 going to be whether or not your modeling shows there are
13 any hydraulic impacts from that improvement. So if
14 there's no hydraulic impacts, then I think counsel may be
15 comfortable that the Board could approve the change. If
16 there are hydraulic impacts, then we're going to be
17 looking right smack in the face of what is going to be a
18 major problem for the Board as we move forward and try to
19 improve this system.

20 MR. BRUNNER: All right. This is part of your
21 handout that shows the current elevations. And you'll
22 notice that on the chart some of the existing heights are
23 actually already above the '57 standard height. That's
24 the height that's there.

25 So we'll run the hydraulics and we'll bring the

1 information back to you all and make our presentation.

2 VICE-PRESIDENT HODGKINS: I don't mean to take
3 away from staff. So you work with staff and whatever they
4 say. But that's where I think the issue is.

5 MR. BRUNNER: Okay. And my last item is: Where
6 do we stand on the building permits that we show? And
7 this is the graph that I showed last time that portrays
8 what we have.

9 The red dash line or the line on top represents
10 the overall building permit limitations that we have from
11 the first agreements that we had that represent the 1500
12 permits. The green line was the first commitment that we
13 had for 2005. The blue line, or this line right here,
14 represents the rate that building permits are being
15 issued.

16 And where we are right now is that we have not
17 yet reached the -- actually you issued the permits all for
18 the '05 and '06 time period. So there was about 69
19 permits that were issued in August. I think that
20 represents the overall growth slowdowns that have occurred
21 in the area. And with the advent now that the second
22 funding agreement was signed, the commitment to the \$135
23 million was signed, and we're moving forward on our
24 project, Yuba County is now working with the developers
25 that are in part of this plan to actually remove the

1 overall building restriction that we have.

2 With the lack of growth in the area right now
3 we're building, I think there's a slowdown in that work,
4 but that has been removed from -- by the county.

5 Is there any particular questions I can respond
6 to you?

7 BOARD MEMBER BURROUGHS: One more question.

8 On the litigation on the land that was taken by
9 eminent domain, when do you project that will be
10 finalized?

11 MR. BRUNNER: We should be in court -- right now
12 it's scheduled for the March timeframe, March of '07.

13 BOARD MEMBER BURROUGHS: Thank you.

14 PRESIDENT CARTER: Mr. Brunner, I thought I heard
15 in your presentation that all of the funding, financing is
16 in place in escrow accounts at this point --

17 MR. BRUNNER: That's correct.

18 PRESIDENT CARTER: -- to proceed with Phase 4?

19 MR. BRUNNER: Correct.

20 PRESIDENT CARTER: And then with regard to the
21 building permits, what I'm seeing on this -- I'm a little
22 bit confused. The Board took action to amend your permit
23 to allow more permits to be issued earlier in the summer.
24 The prior permit limitation, self-imposed, was 700
25 permits, is that correct, up through November of this

1 year?

2 MR. BRUNNER: We had -- for the last two years
3 the sum between the two was 700 and 800, for 1500 permits,
4 which this line represents. In the '06 was 800. So less
5 here is 700, you're correct.

6 PRESIDENT CARTER: All right. And if one were to
7 extrapolate the slope of that purple line there through
8 November, you might be issuing somewhere between 12 and
9 1400 total permits or an incremental of 4 to 500, is
10 that --

11 MR. BRUNNER: You're looking for how many permits
12 we will issue between now and the --

13 PRESIDENT CARTER: Well, just as a guess.

14 MR. BRUNNER: It's really hard to project,
15 President Carter, as to what it will be, because the --
16 it's really a function of the developers pulling those
17 permits and what their belief is that they can build and
18 build the homes in the market for them.

19 There's also a function in here between
20 developers -- when we finally signed the agreements for
21 the 135 there were some developers that stepped aside from
22 the overall commitment. And the rest then came to the
23 plate to make the commitment for the full funding on it.
24 And so there could be some function in here in the next
25 few months. Those that were in the part of their first

1 funding agreement may end up still to pull permits on
2 that. And the other folks that are still in it maybe is
3 pulling some permits too. So you may see some variation
4 in trends.

5 I don't think you can make a trend analysis from
6 the 69 forward here -- too much can project in the future.
7 I mean for many months we had that flat line.

8 VICE-PRESIDENT HODGKINS: A lot of times they're
9 pulling permits now so they can get started and get the
10 house up enough to be able to work on it through the
11 winter. So that -- I agree with Paul. You just have to
12 wait and see what happens. Trending anything on the basis
13 of a month's growth would be a big mistake.

14 And the whole purpose of -- I worked with Paul in
15 formatting this chart -- was so that there is a record in
16 front of us and in front of the public on whether or not
17 our action changed in any way the number of permits that
18 are pulled in comparison to the earlier Board's
19 constraint. And what it shows so far at least is our
20 action, which has resulted in further improvements in
21 flood protection in that they are going forward and fixing
22 a very problematic area that threatens the existing homes,
23 has not resulted in more building permits being issued
24 than would have been permitted under the prior Board's
25 permit conditions.

1 And, you know, my think is I would just as soon
2 have a public record of what's being issued than try and
3 deal with quotes and numbers that get permitted in the
4 paper where I don't know what's happened. And I think
5 this is a good way of showing that.

6 PRESIDENT CARTER: Okay.

7 BOARD MEMBER BURROUGHS: I have one more question
8 about the lawsuit, taken by eminent domain. When was that
9 lawsuit filed? And when were we first notified of it?

10 MR. BRUNNER: Well, the specific dates I do not
11 have, but I can get it for you. It's been within the last
12 few years when the lawsuit was filed. But I can get that
13 specific date for you.

14 BOARD MEMBER BURROUGHS: Thank you.

15 PRESIDENT CARTER: Any other questions?

16 SECRETARY DOHERTY: Yeah, I have one other
17 question.

18 They were going to rework the escape routes.
19 Have they done that, that they were publishing?

20 MR. BRUNNER: The parts of the county that are
21 working that are working through that to try to finish
22 that, yes.

23 SECRETARY DOHERTY: Oh, okay. Thanks.

24 MR. BRUNNER: And in October I'll come back and
25 give a status report of that.

1 SECRETARY DOHERTY: Okay.

2 PRESIDENT CARTER: Appreciate that.

3 Anything else?

4 I'm sorry. Steve, go ahead.

5 CHIEF ENGINEER BRADLEY: Yeah. Paul, did I hear
6 you right? You said that all the money that you need for
7 Phase 4 is in escrow, the whole 135 million, or is just
8 the 20 million initial payment that is due that's in
9 escrow?

10 MR. BRUNNER: The first installment, the 20
11 million, is in escrow. The 135 is not in escrow. But
12 this first 20 million -- we have a commitment to the 135
13 that the landowners have signed up for that lays out the
14 second funding. And that is what we all had worked
15 through. If it was the impression the 135 was in escrow,
16 that's not accurate.

17 But what we have are five -- we call them capital
18 calls that are strategically placed along with the
19 construction of the Phase 4. So the next escrow call
20 where it will put additional money in, and this particular
21 one is 10 million, is based upon the tempo of our project
22 when money is needed, is in the November timeframe. And
23 that particular capital call is for 10 million. So the
24 developers would then put 10 million into the cap -- into
25 the escrow account that would cover our cost for Phase 4.

1 The next significant capital call was in March of
2 '07, which follows along our construction season, which is
3 around \$55 million that they would put into the escrow
4 account. And then it would follow on throughout the rest
5 of '07. Another one -- in '08 there's another one. It's
6 really a function of the landowners making a huge
7 commitment of the money and then having the money under
8 accounts to be used. Then when it's needed, they'll place
9 it in there for us to use.

10 CHIEF ENGINEER BRADLEY: Can they not pay the
11 money, or does the agreement tie them up to -- I mean
12 how -- market's a little soft. And I'm just wondering if
13 they decide that they cannot continue to build for the
14 near future, do they still have to pay the money on the
15 schedule that you request it for?

16 MR. BRUNNER: Well, it's a question -- I would
17 answer that they need to pay the money by contractual
18 arrangement. So they'd have that funding agreement that
19 everyone has signed from the develop -- from the
20 commitment. There's certainly the commitment, of which
21 all attorneys will then argue in that case. But there is
22 a commitment from the landowners to fund those in good
23 faith for moving forward. And I would think that they
24 would fund -- and they understand the ramifications if
25 they were not to fund on particular items. You have the

1 landowners come before you and their representatives and
2 pledge to them on numerous occasions. And we take that as
3 good faith. The Board of Supervisors, Three Rivers, my
4 board, along with RD 784 has stepped forward and signed
5 the agreement along with the landowners, those that are
6 remaining, and made that statement that we're moving
7 forward.

8 PRESIDENT CARTER: Okay. Any other questions?

9 Very good. Thank you very much.

10 MR. BRUNNER: Thank you.

11 PRESIDENT CARTER: All right. We have no -- or
12 no issues for Items No. 9, 10, 11, 12 before the Board.

13 It is the noon hour. What I would suggest is
14 that we break for lunch and then reconvene at 1 o'clock to
15 continue our agenda at Item 13.

16 Everybody concur?

17 All right. So we are in recess.

18 Thank you.

19 (Thereupon a lunch break was taken.)

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25

1 AFATERNOON SESSION

2 PRESIDENT CARTER: Good afternoon, ladies and
3 gentlemen. I'd like to go ahead and reconvene our meeting
4 of the State Reclamation Board.

5 We are currently about to begin Item 13,
6 Applications.

7 Specifically we have Application No. 18046,
8 Castle Principles, LLC, Sacramento County. It was
9 continued from our July 21st meeting.

10 Mr. Mirmazaheri.

11 Good afternoon.

12 MR. MIRMAZAHERI: Good afternoon, President
13 Carter, members of the Board.

14 Let me first congratulate my colleague, Jay
15 Punia, on his new position as General Manager of the
16 Reclamation Board. And I look forward to working with you
17 in the future.

18 Item No. 13, as you mentioned, Mr. Carter, is a
19 continuation of the application which was presented on the
20 July 21st Board meeting. There was extensive discussions
21 back then. And then at the end of discussion it was
22 decided the item to be tabled for the September meeting.
23 And that's why we are here today.

24 What I would like to do is I'd like to begin
25 asking Mr. Scott Morgan, Board legal counsel, to give us

1 some of the progress and anything that happened between
2 July meeting and now. And then after he's done Noel
3 Lerner from Department of Water Resources Maintenance
4 Branch is here, and he's going to talk about DWR
5 involvement as far as formation of the maintenance area.

6 And at the end I'll be available at the pleasure
7 of the Board. If you want me to refresh everybody's
8 memory on the presentation that was done in July, I'll be
9 more than happy to do that. If there's no need for it,
10 I'm here for any questions to answer.

11 So if Scott Morgan could begin his part, I'd
12 appreciate that.

13 STAFF COUNSEL MORGAN: All right. Thanks.

14 Just to remind the Board, at the last meeting in
15 July when this item was brought to the Board, there was a
16 motion made to amend the staff recommendation, which
17 failed. And it wasn't an outright rejection or at least
18 we didn't perceive it to be an outright rejection of the
19 application. It was a failure of that particular motion
20 to amend the staff recommendation.

21 And we left it open for the applicant to return
22 once he had resolved the issue of an entity responsible
23 for operating and maintaining the project and making
24 themselves known.

25 As you recall, with this project it's a small

1 stretch of project levee that for one reason or another,
2 and we don't actually know, has not been operated and
3 maintained by a local entity and no local entity has
4 admitted to having any responsibility of operating and
5 maintaining it. And this Board expressed a -- well, not
6 reluctance -- an outright refusal to grant a permit for a
7 project where there was no local entity maintaining the
8 project. And so the condition was, get someone to
9 maintain the project, come back and we'll look at the
10 permit application at that time.

11 Subsequent to that meeting we met with the
12 applicant and we indicated that if in fact no local agency
13 was going to maintain the project, the state would have an
14 obligation under the maintenance area law to establish a
15 maintenance area. And that the decision is for the Board
16 to decide how -- what level of protection or what level of
17 certainty that there is in terms of an agency taking over
18 the O&M responsibilities. But in my view as a legal
19 matter, if the Department were to determine that it was
20 going to embark on a process of establishing a maintenance
21 area, that would be legally sufficient in my mind to say
22 now we know that there's an entity out there that will
23 ultimately take on this responsibility.

24 It takes some time. Rod Mayer is here, Noel
25 Lerner's here, and they know about the mechanics of the

1 process of forming maintenance areas. And they can
2 describe for you what happens, how long it takes. It's
3 not an instantaneous process. But in the scope of flood
4 concerns in this particular area, particularly and also
5 relative to the timeframe in which the development would
6 conceivably occur, I suspect it's rapid enough for the
7 purposes of the Board. And the important thing is we know
8 that ultimately there will be a responsible agency taking
9 care of this project. And it would be the State of
10 California through the Department of Water Resources.

11 So we indicated to the applicant that if -- we
12 would put this item back on the agenda for this month.
13 And if the Department of Water Resources were to determine
14 that it would embark on forming a maintenance area, we
15 would bring it to the Board and the Board can then
16 consider whether to grant a permit.

17 And, Noel or Rod, one of you guys going to talk
18 about the maintenance area issue?

19 SENIOR ENGINEER LERNER: Yes.

20 Good afternoon, members of the Board and, happy
21 to say, General Manager Punia. My name is Noel Lerner.
22 As Scott said, I'm Chief of the Maintenance Support Branch
23 in the Division of Flood Management. And we've been asked
24 to undertake the formation process. And I'm here to very
25 briefly describe that process and answer any questions you

1 might have.

2 The process is straightforward, and we follow
3 what's prescribed by the Water Code Section 12878. And
4 we've initiated the process by writing a letter that was
5 signed yesterday by Rod Mayer, the Division Chief. And
6 it's been sent to agencies that we think might be involved
7 in the -- might be involved as the local maintaining
8 agency, stating that we're undertaking the formation
9 process and that we'll continue that process and complete
10 it unless an agency steps up. And that really is the
11 initiation.

12 What is prescribed by the Water Code is that the
13 first step is to write a prepared statement of necessary
14 work, which describes the deficiencies and estimates the
15 cost for the current year and the following year for
16 undertaking the maintenance required to address those
17 deficiencies.

18 And the Water Code is written with the idea that
19 there is a local agency out there, because there's a --
20 once that document's completed, there's a 45-day protest
21 period for the local agency to review that. And then
22 after that period closes, within 30 days the Board would
23 meet to review the statement, listen to the local
24 maintaining agency, and then make a decision on whether to
25 continue with the process or to accept the local

1 maintaining agency stepping up.

2 In this case, we would still anticipate mail out
3 the statement of work to the agencies we've already
4 contacted. We don't anticipate them stepping up. But if
5 they do, they can come forward, protest it. But if
6 there's no protest, then the next step will be -- after
7 the Board authorizes to proceed, would be to form a
8 boundary map that identifies the area, defines any benefit
9 zones and assessment. And after that, there's a notice
10 period and a public meeting held where the public would
11 have a chance to see the map and make comments.

12 After that map is finalized, we would come back
13 to the Board, and the Board has an opportunity to vote and
14 approve it. And if they approve it, then a maintenance
15 area is formed and recorded.

16 And we anticipate that process taking about six
17 months.

18 SECRETARY DOHERTY: Pardon me. I missed your
19 name.

20 SENIOR ENGINEER LERNER: Noel Lerner.

21 SECRETARY DOHERTY: Oh, okay. Thank you.

22 SENIOR ENGINEER LERNER: No questions?

23 PRESIDENT CARTER: I have one question, Mr.
24 Lerner.

25 It's currently the case that there is no

1 maintaining agency. Does the state have to acquire
2 easements for the levee? Are there easements on record
3 now for somebody who built a levee or took responsibility
4 for it?

5 SENIOR ENGINEER LERNER: At this point I don't
6 know. It appears that it's a part of the federal project.
7 Otherwise we wouldn't be undertaking this. So, you know,
8 I assume that there are easements. But that's something
9 we have to look at.

10 STAFF COUNSEL MORGAN: And just for
11 clarification. The appearance that it's a federal project
12 comes from the Corps of Engineers, who tells us that it's
13 a federal project. So I mean it wasn't just a
14 supposition. We have gotten confirmation from the Corps
15 of Engineers that this is part of a federal project.

16 SECRETARY DOHERTY: This is what this copy is
17 here, this --

18 STAFF COUNSEL MORGAN: I don't have that, so I
19 don't know what that is.

20 We did receive a letter I believe from the Corps
21 of Engineers or an e-mail from the Corps of Engineers, one
22 or the other, confirming that this was -- this stretch of
23 levee was part of a federal project.

24 SENIOR ENGINEER LERNER: It's described in the
25 O&M manual. Although there was no official turnover

1 letter, it is described in the Corps's O&M manual.

2 PRESIDENT CARTER: So it slipped through the
3 cracks, I guess, at some point in time. We don't know
4 when or --

5 SENIOR ENGINEER LERNER: Correct. That O&M
6 manual was written in 1954, I think. So there's a little
7 bit of institutionalizary loss.

8 PRESIDENT CARTER: Okay.

9 VICE-PRESIDENT HODGKINS: Question for Noel.

10 Noel, suppose this levee was deficient, either
11 from freeboard, levee stability, or underseepage. Would
12 those all be matters that the maintenance district would
13 be required to fix?

14 SENIOR ENGINEER LERNER: I think it would be
15 limited to maintenance -- what's required for maintenance,
16 not improvement. So if it were an under --

17 VICE-PRESIDENT HODGKINS: Isn't maintenance
18 keeping your levee up to profile?

19 SENIOR ENGINEER LERNER: Maintenance would be
20 keeping the levee in accordance with the operation and
21 maintenance manual and what was specified in that. And I
22 can't tell you today what that entails.

23 VICE-PRESIDENT HODGKINS: Okay. So if there were
24 defects in this levee, those would not become the
25 responsibility of the maintenance district if they weren't

1 due to maintenance?

2 SENIOR ENGINEER LERNER: I'd say so. I agree
3 with that.

4 VICE-PRESIDENT HODGKINS: Okay.

5 BOARD MEMBER RIE: Okay. So at this point Rod
6 Mayer sent a letter to somebody, a bunch of people stating
7 that the state is willing to take over the maintenance at
8 this point?

9 SENIOR ENGINEER LERNER: We are going to proceed
10 with forming a maintenance area.

11 BOARD MEMBER RIE: That has already been decided.

12 And so unless someone steps forward and says that
13 they want to maintain it, we're going to proceed forward?

14 SENIOR ENGINEER LERNER: Correct.

15 BOARD MEMBER RIE: Okay.

16 PRESIDENT CARTER: Just for the record, the
17 letters that we have on hand from Mr. Mayer are to Knights
18 Landing Ridge Drainage District, Yolo County Service Area
19 No. 6, and the Reclamation District 730, Knights Landing.
20 So I guess -- I guess had responsibility for levees around
21 this particular site?

22 SENIOR ENGINEER LERNER: Yes.

23 PRESIDENT CARTER: All right. Any other
24 questions for Mr. Lerner?

25 SECRETARY DOHERTY: So this is strictly

1 informational?

2 SENIOR ENGINEER LERNER: Correct.

3 PRESIDENT CARTER: Okay. Very good.

4 Thank you.

5 MR. MIRMAZAHERI: Scott, anything else we have to
6 add?

7 STAFF COUNSEL MORGAN: Well, I do want to add,
8 the maintenance area process -- and Mr. Hodgkins asked
9 questions related to this. The ability of the maintenance
10 area to go beyond maintaining the existing structures. I
11 believe, and I think Mike can address this or the
12 applicant could address this, that the application
13 envisioned modifications to the levee that would have
14 improved it. And it would be -- if there's going to be a
15 permit issue, I think it prudent to form a maintenance
16 area based on the condition of the levee after it's
17 improved by the applicant rather than before, because the
18 maintenance area process freezes the status quo. And so
19 you want to see the fixes made before.

20 But, again, I think we could probably work around
21 that issue by just permitting extraordinary maintenance be
22 done by an entity so long as the work is being approved
23 by, in this case it would be the state for the maintenance
24 area. And have those improvements overseen by the
25 Reclamation Board, by the Department and then turn it over

1 to the project. And either way probably would work.

2 MR. MIRMAZAHERI: As far as fixes, the Yolo
3 County has requested and requires the applicant to
4 maintain the levees on the landside to a minimum of 3 to 1
5 and -- which is better than what the Corps of Engineers on
6 the landside requires, which is 2 to 1. So typically an
7 application which is the work done on the levee, the
8 landside slope, we could ask them to maintain it at 2 to
9 1. But in this case because of the Yolo County
10 requirements, they will be asked to maintain it at 3 to 1.

11 I guess in summary briefly, the July 21st, last
12 meeting, and today, this meeting, the only development is
13 that the Department of Water Resources has agreed to step
14 forward and form a maintenance area for that. And this
15 was one of the obstacles -- the main obstacles that was
16 discussed back in July.

17 And from here on, you know, at the Board's
18 pleasure, if there is any question on the technical issues
19 or if the Board would like me to do a quick summary of
20 what was presented back in July or however you would like
21 to do it, I'll be at your service.

22 SECRETARY DOHERTY: You said the applicant will
23 be doing work. Is he going to be doing work on this levee
24 before its accepted into a maintenance district, or when
25 is the work being done?

1 MR. MIRMAZAHERI: I'm not quite sure.

2 SECRETARY DOHERTY: Did I understand or --

3 MR. MIRMAZAHERI: Right. The time-wise I'm not
4 quite sure. But the obligation for the applicant to do
5 the work would be part of the permit. Whether that's
6 going to happen before formation of maintenance area,
7 which I do not know how long it's going to take, or after,
8 that I don't know. I don't have a good estimate of time
9 for both processes to go on concurrently.

10 SECRETARY DOHERTY: Were they going to do a
11 hydraulic analysis?

12 MR. MIRMAZAHERI: Do you want to address that?

13 PRESIDENT CARTER: Lady Bug, I think to a certain
14 extent that's the point that Scott was making in terms of
15 whether or not the maintenance area is formed before or
16 after the work is completed, because the maintenance
17 area -- the formation of the maintenance area freezes the
18 condition of the levee, I guess.

19 SECRETARY DOHERTY: But can they work on the
20 levee without a permit?

21 PRESIDENT CARTER: Well -- yeah, Scott.

22 STAFF COUNSEL MORGAN: No, they can't work --
23 they won't be able to work on the levee without a permit.
24 This permit -- I don't know if the applicant's here to
25 talk about this timeframe, if he were to get a permit now,

1 what he would do when. But I'm assuming that some of the
2 work is supposed -- is to be done before the flood season
3 starts in November. And that's going to be long before
4 the maintenance area can be formed by the Board after the
5 material is brought from the -- by the Department.

6 So you would have improvements in the levee.

7 And, yeah, I think we would want to know, what I assume is
8 part of the package of the hydraulic analysis, any of the
9 work that's going to be proposed for those levees.

10 BOARD MEMBER RIE: Is this permit to improve the
11 levee, make improvements?

12 MR. MIRMAZAHERI: Part of it is to bring the
13 landside slope to a minimum of 3 to 1.

14 BOARD MEMBER RIE: Could you --

15 PRESIDENT CARTER: Mr. Mirmazaheri, maybe we
16 ought to just clarify exactly -- if you could just
17 highlight from your presentation from last --

18 MR. MIRMAZAHERI: I can do that.

19 PRESIDENT CARTER: -- meeting what the permit is
20 all about, I mean -- and what the Board is being asked to
21 do at this point.

22 MR. MIRMAZAHERI: There were four components in
23 the permit. One is to raise the toe. They are raising
24 the entire area. This is to maintain a grade for the
25 storm water to flow toward the center of the project and

1 towards the detention pond. So part of this fill would be
2 encroached, put in the easement of the Reclamation Board.
3 So they would raise the toe and will maintain a minimum of
4 3 to 1 -- 3 horizontal to 1 vertical side slope on the --

5 PRESIDENT CARTER: You're talking all landside,
6 not waterside?

7 MR. MIRMAZAHERI: All landside, correct. This is
8 all landside.

9 It's also proposing to install an 8-inch pipe
10 through the levee. And the purpose of that is to be able
11 to pump the storm water from the detention pond back to
12 the channel.

13 Component 3 of this proposal is to place
14 aggregate base on the levee. And this is mainly for
15 better public access.

16 And the 4th component is to construct two access
17 ramps on the landside for pedestrian and...

18 So these are the four components of the proposed
19 project.

20 Would you like me to go on to other part or just
21 project description?

22 BOARD MEMBER RIE: I was just curious if Steve
23 Bradley had a recommendation. Have you looked at those?
24 Is it a good idea?

25 CHIEF ENGINEER BRADLEY: I looked at this two

1 months ago when we brought it forward. The DWR
2 announcement that they were willing to form a maintenance
3 area came outside at 3:30. And I have not looked over the
4 whole permit with that, what I would call, new piece of
5 information. We've not coordinated yet with DWR on
6 looking at the plans, because they would become the local
7 maintaining agency. Now we don't -- when DWR is the
8 maintaining agency, we don't have to have an endorsement
9 by local agency like we do with an RD. But we still tend
10 to coordinate with them on whether the plans are adequate
11 or not. That hasn't been done.

12 In general, what I remember from two months
13 ago -- and, like I said, it's been two months and I
14 haven't looked at it. I was on vacation for a month and
15 did not think about this at all.

16 In general, I think what's being proposed is
17 fine. The water on the backside is actually drainage
18 water. It's not flood water per se. It is -- flows in
19 from the Colusa Basin Drain. They go out the Knights
20 Landing ridge cut, which is to the west side of the
21 project during high flows. In fact, in 1997 the
22 Sacramento River got so high that it actually flowed back
23 over the Knights Landing outfall gates and into the Colusa
24 Basin Drain. But the water coming in on the backside of
25 the gates actually comes in from Colusa Basin Drain. The

1 levee there I believe -- and I don't know if Richard
2 Jenness is still in the audience or not. But he's the
3 engineer for most of districts out there, knows a lot more
4 about the hydraulics than I do. But the levee is quite a
5 bit higher than the design profile for the Colusa Basin
6 Drain.

7 BOARD MEMBER RIE: So two months ago when this
8 came before the Board, was it staff's recommendation to
9 approve the permit?

10 CHIEF ENGINEER BRADLEY: I believe so.

11 MR. MIRMAZAHERI: Two months ago -- I think I cut
12 myself off.

13 Can you hear me now?

14 I did turn it off.

15 I think I got it.

16 Okay. I'm back on.

17 Two months ago staff recommendation was
18 contingent on Condition No. 13, which indicated that the
19 permit would not be valid unless there's a maintaining
20 agency take responsibility for the maintenance of that
21 stretch of levee. That was a proposal and that was the
22 recommendation of staff back in July.

23 BOARD MEMBER RIE: Okay.

24 MR. MIRMAZAHERI: And one more comment in
25 reference to the easement. There is an easement recorded

1 by Mildred and Ralph White, the owner of the property.
2 And it has been -- it's been an easement for operation and
3 maintenance to the Sacramento/San Joaquin Drainage
4 District.

5 BOARD MEMBER RIE: Okay. So, in summary, your
6 recommendation was to approve the permit and then --
7 because you don't know at the time whether there was a
8 maintenance agency or not, you put a condition on there
9 that said that the permit would not be valid unless
10 there's a maintaining agency, and I assume that condition
11 is still there?

12 MR. MIRMAZAHERI: It's up to the Board. Now,
13 with DWR stepping forward, whether you still want to have
14 permitting go or not, then that condition to be there or
15 not is up to the Board.

16 BOARD MEMBER RIE: Okay.

17 MR. MIRMAZAHERI: But that was a recommendation
18 in July, because we had no idea that DWR or anybody would
19 step forward and accept responsibility.

20 BOARD MEMBER RIE: Okay.

21 VICE-PRESIDENT HODGKINS: When this was in front
22 of us before, I expressed some concern that I was
23 uncertain and tending towards believing that probably the
24 levees in the Knights Landing area are subject to
25 potential underseepage age and other problems. Okay? And

1 so I had proposed a condition that would in effect say
2 there had to be an analysis to determine whether or not
3 the development would flood in the event of a levee
4 failure.

5 Now, the maintenance issue's being addressed --
6 at least I think that's the case. Although I'm curious
7 about what happens if you end up in a situation where you
8 propose to include in this district other beneficiaries of
9 this levee may already be paying into another district.
10 Is that going to happen? What's going to happen, Noel?

11 Could Noel come back up?

12 I want to be just certain that once DWR says
13 they're going to do this, they're confident they can do it
14 no matter what happens in terms of the reaction of people
15 out there.

16 SENIOR ENGINEER LERNER: The answer would be yes.
17 They might -- if they benefit from this as well as another
18 levee district, they'll get an assessment on that.

19 VICE-PRESIDENT HODGKINS: And even if they're
20 unhappy about that, can you proceed ahead and form the
21 district?

22 SENIOR ENGINEER LERNER: We would proceed. Then
23 it's up to the local agency. If they don't want us to
24 come in with a maintenance area, someone needs to step up
25 and form -- and take over maintenance. So whether it's a

1 maintenance area or it's a local entity, someone has to
2 maintain that.

3 VICE-PRESIDENT HODGKINS: So, in essence, the
4 letter at the very least will force somebody to step up
5 and take responsibility for maintaining the levee?

6 SENIOR ENGINEER LERNER: The letter that was just
7 written?

8 VICE-PRESIDENT HODGKINS: That DWR -- the process
9 that we embark upon it.

10 SENIOR ENGINEER LERNER: Yes. We hope a local
11 agency. But if a local agency doesn't, we will continue
12 with the maintenance area process.

13 VICE-PRESIDENT HODGKINS: Okay. Now, based on
14 your knowledge -- and I think you were involved in the
15 comp study, were you not?

16 SENIOR ENGINEER LERNER: No.

17 VICE-PRESIDENT HODGKINS: No, unfortunately.

18 Well, here's a little bit of my philosophy here
19 with respect to this. I think we have in front of us a
20 permit that is associated with -- that requires an action
21 by this Board, and, in essence, is also a permit that's
22 going to result in the construction of residences behind
23 this levee. And I know that there are permits being
24 granted -- excuse me -- there are actions taking place in
25 other areas where, not only are people proposing, they are

1 building. But those don't come in front of us. And for
2 me, I think -- and my fundamental belief here is that
3 while it looks like the Board's intervening in land use,
4 and maybe we are and maybe we aren't -- I don't know the
5 details of that -- I don't think the Board should take an
6 action that could result in more people being at risk
7 without requiring that in connection with granting that
8 permit and analysis to be done to determine whether they
9 really are at risk.

10 And, you know, I think in the issue of this
11 particular permit, there are two areas where I would like
12 to see an analysis conducted:

13 The first is to be absolutely certain to the
14 satisfaction of our staff that there is not an
15 underseepage problem with this levee. Because once this
16 work is done, it could be very difficult to fix that.
17 Okay?

18 And I think it would be inappropriate for us to
19 grant a permit in an area where -- people behind a levee
20 where underseepage could be a problem. My understanding
21 when talking to the applicant is they may have done this
22 analysis. And so it may be possible for them to very
23 quickly submit that and staff to look it over, see if it
24 appears to be consistent with the Corps guidelines for
25 underseepage analysis. And if it did, and staff was

1 satisfied, I'm satisfied, for underseepage.

2 The second one for me is -- I know that in '97
3 there were levees downstream that were very close to being
4 over. I don't know. I didn't see it. But Lynelle
5 Pollack said she stood on it and it was halfway -- it was
6 up to the white line on the road, going over the road.

7 I think there's a potential these levees could
8 fail. I know in the paper that the action that Yolo
9 County took on a downstream project was to require the
10 applicant to build the houses above the water surface
11 elevation that would occur if the levee failed. And so my
12 second condition would be that the applicant furnish an
13 analysis that shows the houses are being built above the
14 water surface elevation that would occur in the event
15 there was a levee failure.

16 And I'm not going to specify where it is. I will
17 leave it to the applicant and staff to render out what's
18 the most reasonable approach to that analysis. But in
19 talking to the applicant about the elevations, it sounds
20 like they might already be there. I don't know.

21 So I think I feel that I could support the permit
22 if it were conditioned upon those two analyses being
23 completed, submitted to the staff and staff accepting them
24 and showing no significant underseepage problem, and that
25 the homes would be above the water surface that would

1 occur in the event of a levee failure.

2 So that's primarily where I come from. I think
3 that's -- that's perhaps not our usual condition, our past
4 usual condition. But given what we know about this
5 system, the nature of the issues we face in the future, I
6 think that it's appropriate to do that when somebody has
7 on come in front of the Board.

8 Now, I would also -- for the applicant say the
9 applicant has stated, and it's probably true, that he
10 could proceed with this development without this permit by
11 changing his design. And there's nothing that we can do
12 or probably should do if he's not asking us to take an
13 action in granting him a permit.

14 But as long as he is, those are the conditions
15 that I would propose we include.

16 PRESIDENT CARTER: I think what we might want to
17 do is let's hear from the applicant and a few of the folks
18 from the -- that I've got cards from the public before we
19 talk anymore about our positions.

20 Mr. Boatwright.

21 MR. BOATWRIGHT: Good afternoon, Mr. President
22 and Board members. I'm Dan Boatwright with Castle
23 Companies, the applicant.

24 I probably should address the question that the
25 Lady Bug asked originally about the improvements to the

1 levee that we would -- would we bring this up to the level
2 that it needs to be? And the answer is yes. That was
3 part of our application, that we would bring the levee to
4 state standards. So the 3 to 1, the -- everything that
5 needs to be done to the levee to improve it to those
6 standards.

7 We at this point have received a grading permit
8 from Yolo County. Recently we received that grading
9 permit. A year ago we also received our tentative map
10 approval from Yolo County. So we have those land use
11 approvals from Yolo County.

12 We do not have the Reclamation Board permit. We
13 cannot proceed with the improvements to those levees and
14 bring them up to state standards, at no cost to the state,
15 unless we have that Reclamation Board permit to do that
16 work.

17 So at this point our grading permit from the
18 county's perspective allows us to go forward. But there
19 are certain limitations that we have from the state here
20 as far as what encroachments we can make to that levee.

21 So I guess that's the answer to your question. I
22 hope that answers it.

23 SECRETARY DOHERTY: So it's a Catch 22. If we
24 don't give you the permit, you can't get the permit from
25 Yolo County.

1 MR. BOATWRIGHT: No, I have the permit from Yolo
2 County. If you don't give me your permit, I can't go the
3 other leg because you haven't given me the permit.

4 SECRETARY DOHERTY: Oh, I see. All right.

5 BOARD MEMBER RIE: So is your permit to bring the
6 levee up to standards and improve the levee? Is that what
7 you're doing?

8 MR. BOATWRIGHT: Yes. That is the permit, is to
9 bring it up to standards, to put that discharge pipe
10 through it and to improve the maintenance road on top with
11 the base rock so that trucks can drive it and view it
12 year-round.

13 PRESIDENT CARTER: We probably ought -- Mr.
14 Mirmazaheri at some point ought to verify that in fact
15 that's -- I didn't read that in the permit. I read, you
16 know, four different things, but not specifically meeting
17 state standards. So at some point we'll have to ask staff
18 to confirm that.

19 MR. BOATWRIGHT: Right. That was what we put in
20 our application I believe, is to bring it up to state
21 standards.

22 PRESIDENT CARTER: I'm sorry, Teri. I didn't
23 mean to interrupt.

24 BOARD MEMBER RIE: Just real quick. Does the
25 levee have a base rock on it now?

1 MR. BOATWRIGHT: A portion of it does. The small
2 northern section has a base rock. About two-thirds or
3 three-quarters of it does not have any base rock. It's
4 just dirt, and real impassable in the winter.

5 This is a portion of the levee that, as you know,
6 has been working forever and has never really been
7 maintained. So we will be through the Department of Water
8 Resources providing for that ongoing maintenance so that
9 it will have an entity. Whether it's some local entity
10 steps up, which it does not appear likely to happen. And
11 I have a letter that I received -- just received from the
12 Knights Landing Drainage District saying they didn't want
13 it. But the other agency, County Service Area 6, from
14 Yolo County has also stated verbally to the Department of
15 Water Resources and to the State Reclamation Board staff
16 and to me that they don't want it. And then the other
17 district, the 7 -- I forget what it was -- 7 something,
18 they are really just a drainage district. So there's
19 really only two viable districts that could step up, but
20 they have indicated they won't. So without the Department
21 Water Resources there would be nobody.

22 So with that I would like to comment that we are
23 very supportive -- or hopeful that the Department of Water
24 Resources will find a way to maintain this levee and we
25 will proceed forward with this process. And I'm glad to

1 hear that they finally -- I'm getting to find out that it
2 is a federal levee and that it was within their
3 jurisdiction to do that.

4 I also have here, as was mentioned, Mr. Richard
5 Jenness, who is a Registered Professional Civil Engineer,
6 who can talk about the elevation of this site and the new
7 subdivision, which will be elevated another two or three
8 feet above the existing grade. When that occurs, it will
9 be the highest portion in town with the exception of the
10 old indian mound where the trailer park is. There's a
11 small trailer park there right now. So it will be the
12 highest portion of town.

13 That just shows the overall vicinity there. And
14 I think -- well, you've got that in your packet. You know
15 where the levees are.

16 So the arrow indicates the development site and
17 the levee that we are talking about, the levee in
18 question.

19 So the site itself is not currently within the
20 100-year flood zone. It is in Zone B, so it is outside
21 the new -- outside of the 100-year flood zone. The new
22 homes will be paying an additional \$19,000 a year in
23 taxes. It goes specifically to maintaining levees along
24 the Sacramento River. So by virtue of these new houses,
25 they are going to be paying more for maintenance of that

1 existing levee on the Sacramento River and enhancing the
2 safety of that through those additional revenues.

3 SECRETARY DOHERTY: Did you say 19,000 a year?

4 MR. BOATWRIGHT: \$19,000 a year. Sixty-three
5 homes will pay \$19,000 a year in taxes for the maintenance
6 of the Sacramento River Levee. And that's in addition to
7 what they get already from the homes in Knights Landing.

8 SECRETARY DOHERTY: But don't a certain number of
9 those have to be lower income?

10 MR. BOATWRIGHT: Yes. That is the overall -- no,
11 that's not each home. That's overall. Sixty-three homes
12 pay \$19,000.

13 SECRETARY DOHERTY: Each?

14 MR. BOATWRIGHT: No, no. Total.

15 SECRETARY DOHERTY: Oh, okay.

16 VICE-PRESIDENT HODGKINS: But how do they pay
17 that much to --

18 MR. BOATWRIGHT: Out of their property taxes, 6
19 percent of that goes towards the levee maintenance every
20 year.

21 VICE-PRESIDENT HODGKINS: Six percent based on
22 what?

23 MR. BOATWRIGHT: Six percent of the assessed
24 value of their homes. Six percent of the 1 percent -- or
25 the 1.1 percent of the tax revenue.

1 BOARD MEMBER BURROUGHS: And how is that
2 percentage derived?

3 MR. BOATWRIGHT: That was there originally when
4 the Department of Water Resources gave up their
5 responsibility for the Sacramento River to the county.
6 And so -- it was pre-Prop 13. And so it was arrived at
7 tax rate back then when you could do those kind of things
8 without the vote of people.

9 BOARD MEMBER BURROUGHS: So if I'm hearing you
10 right, then the county was the responsible party by
11 collecting taxes for maintenance?

12 MR. BOATWRIGHT: The county collects taxes and
13 has been collecting taxes, the property has been paying
14 taxes. And the county has been the maintaining entity
15 from -- all the way from the Fremont Weir up to the
16 outfall structure. This orphan portion of the levee has
17 had no maintenance from anybody, even though everybody
18 been paying the county. Whether they believe it or not,
19 somebody's been paying money to maintain levees in the
20 area and have gotten nothing for this portion of the
21 levee. It's been unmaintained this entire time. So
22 Department of Water Resources, Knights Landing Ridge
23 Drainage District nor SA-6 has maintained that levee the
24 entire time.

25 SECRETARY DOHERTY: Could you tell us perhaps how

1 long the distance this levee is?

2 MR. BOATWRIGHT: Two thousand feet.

3 MR. MIRMAZAHERI: The area that currently there's
4 nobody accepting responsibility for maintenance is
5 approximately 2,000 feet.

6 BOARD MEMBER BURROUGHS: Well, it sounds like
7 there is a responsible party; they just haven't been doing
8 the work.

9 MR. BOATWRIGHT: I would like to make that
10 argument, but I think they would disagree. So I don't
11 think that gets us anywhere really. I'm happy that
12 somebody has stepped up and agreed to take it. That's --
13 not just for me. But these people in Knights LANDING have
14 had an unmaintained levee and, otherwise, they would have
15 continued to have a maintained levee, which I'm sure you
16 don't want to see.

17 BOARD MEMBER BURROUGHS: But they've been paying
18 for it to be maintained, those that are --

19 MR. BOATWRIGHT: Taxes -- everybody's been paying
20 those taxes, yes.

21 BOARD MEMBER BURROUGHS: So now would there be
22 some collection on back payment?

23 SECRETARY DOHERTY: No, they've been paying.

24 BOARD MEMBER BURROUGHS: You said there hasn't
25 been any maintenance work done.

1 STAFF COUNSEL MORGAN: Yes, Scott Morgan.

2 I think those questions are for the local
3 entities to answer for the property owners. I don't think
4 that's something that the Board can really do anything
5 about.

6 I think the local agencies that might have
7 responsibility for this all say, "No, we don't have
8 responsibilities for it." So all the taxes they've
9 collected if they don't have responsibility for it
10 wouldn't be going towards it. And we didn't want to argue
11 about -- you know, go back through historic records and
12 find -- who may help us find something and then never done
13 anything. If no one's doing anything, then, you know, the
14 state needs to form a maintenance area. And the state --
15 the Department has indicated that it's going to start down
16 that path.

17 And it doesn't matter why they're not doing the
18 maintenance, whether they think they're not responsible or
19 they know they are and don't have the money or they just
20 choose not to do it. For whatever reason, a maintenance
21 area is required under the circumstances, and so the
22 Department has committed itself to embark on that process.

23 Now, as it said in the letter, if someone comes
24 forward and says, "Oh, wait, we'll do it," then the
25 Department can back out of the process. But at least we

1 know for the purposes of the Board that now someone
2 eventually will be taking over this process.

3 BOARD MEMBER BURROUGHS: So was a copy of the
4 letter sent to the county?

5 DIVISION OF FLOOD MANAGEMENT ACTING CHIEF MAYER:
6 Yolo County, right.

7 STAFF COUNSEL MORGAN: Yes, the county got one.

8 VICE-PRESIDENT HODGKINS: One question. You said
9 \$18,000 a year in tax revenue from these houses will go
10 for flood control maintenance. And my question is: Does
11 it go to the state or to Yolo County for that?

12 MR. BOATWRIGHT: Goes to County Service Area No.
13 6. And I think before they took it over it probably went
14 to the Department of Water Resources.

15 VICE-PRESIDENT HODGKINS: I doubt that, because
16 the Department of Water Resources doesn't get tax money.
17 They get it from the General Fund. But that's the only
18 way.

19 So that money is not money that is going to help
20 the state maintain any of the flood control levees in the
21 Sacramento Valley?

22 MR. BOATWRIGHT: The Department of Water
23 Resources does not maintain the Sacramento River levee in
24 this area. That was taken over by County Service Area No.
25 6 from them in 1968 or '72, something like that. So it

1 does go to maintain a levee that originally was maintained
2 by the state.

3 VICE-PRESIDENT HODGKINS: I see. So Yolo County
4 will have more money to maintain the levees outside the
5 area of this development?

6 MR. BOATWRIGHT: Outside of that orphaned levee
7 portion of this development.

8 VICE-PRESIDENT HODGKINS: Right.

9 MR. BOATWRIGHT: True. So that is important from
10 the overall health and benefit to the people living in
11 Knights Landing, because it's not just this portion.
12 So --

13 BOARD MEMBER RIE: Real quick. How much is it
14 going to cost? I mean everybody's, you know, just
15 completely dismissing this. Is it a really huge cost?

16 MR. BOATWRIGHT: No, I think it's only on the
17 order -- I can't remember if it was only on the order of
18 \$5,000 a year maximum.

19 MR. MIRMAZAHERI: Just a clarification. Are you
20 referring to the maintenance cost of that reach? Is that
21 what you're asking?

22 BOARD MEMBER RIE: (Nods head.)

23 MR. MIRMAZAHERI: Noel, do you have any
24 information for that?

25 SENIOR ENGINEER LERNER: This is Noel Lerner.

1 Coming up with the cost for the first year is
2 part of the statement of necessary work. We haven't done
3 that yet. But a reasonable cost might be about \$20,000 --
4 is that a mile?

5 That's \$20,000 a year a mile after it's been
6 brought up to standards.

7 Now, I was out there last week. And there might
8 be a fairly significant mitigation bill because of the
9 vegetation that's grown up. But, you know, we can't even
10 guess. We're just at the beginning of that process.

11 BOARD MEMBER RIE: But the developer, Castle
12 Companies, they want to get a permit to bring it up to
13 standard. So we're starting from standard before we take
14 it over, right? Scott?

15 The developer wants to get a permit to bring it
16 up to standard. So before DWR assumes maintenance
17 responsibilities, it will be in standard condition,
18 correct?

19 STAFF COUNSEL MORGAN: Well, the --

20 BOARD MEMBER RIE: Then they would take it over?

21 STAFF COUNSEL MORGAN: Much of this area is
22 encompassed by the permit application. A little bit of it
23 is outside. So the Department's going to have to raise up
24 a little extra piece on its own and build that as part of
25 this maintenance area cost.

1 Now, understand, it really doesn't matter what
2 the cost is going to be. It is my understanding too from
3 what I've heard that the cost will not be great, annual
4 maintenance cost, and it will be spread over a large
5 number of homes. But the state has to form this
6 maintenance area no matter what, whether there's a
7 developer here or not. So the only difference would be if
8 there's a development, there will be more homes to spread
9 the cost around.

10 Now that we've embarked on this project, you
11 know, the die is cast. And I don't know which end of
12 it -- perhaps you can, Mr. Boatwright, show where the
13 project ends and where the unmaintained levees continue on
14 this diagram.

15 MR. BOATWRIGHT: It's a little difficult on this,
16 at the scale it's. But the southern portion of it I
17 believe is about there and the northern portion of it is
18 where the outfall structure is, about here. So somewhere
19 in that portion. As you get towards the corner, the land
20 goes up to a height where there's no levee. And that goes
21 all the way around the corner to the 113 bridge. There is
22 no levee. The land is just higher there.

23 STAFF COUNSEL MORGAN: But there will be a little
24 stretch of the existing levee that will be in the
25 maintenance area that is not part of the applicant's

1 project. So the Department will have to do all the work
2 on that itself.

3 I wanted to kind of use this or some kind a
4 diagram to make sure I understand what Butch is proposing
5 for what levees. The underseepage analysis you're
6 describing for this levee here? Or -- this is the
7 Sacramento River here. And so are you looking for an
8 analysis along the stretch of levee that is subject to the
9 permit or the Sacramento River or something else
10 altogether?

11 VICE-PRESIDENT HODGKINS: Well, help me a little
12 bit. If somebody trace out the Knights Landing ridge cut
13 through here, because I can't tell by looking.

14 Right through there. Okay.

15 STAFF COUNSEL MORGAN: And then this would be the
16 Colusa Basin drainage canal. Here's Sycamore Slough. And
17 then here's the Sacramento River coming around.

18 VICE-PRESIDENT HODGKINS: Right.

19 STAFF COUNSEL MORGAN: And there is the Town of
20 Knights Landing, and then the development just to the west
21 of that -- northwest of that.

22 VICE-PRESIDENT HODGKINS: Okay. You know, I'd
23 like to have somebody do an underseepage analysis as well
24 on Knights Landing ridge cut levee, because these zones
25 could be flooded by the failure of that levee. But I

1 think my concern is focused on the project levee that the
2 state's going to potentially be responsible for
3 maintaining, and that the homes in this area not be
4 subject to be above the floodplain that would result if
5 any of the levees that could result in flooding of this
6 area fail.

7 STAFF COUNSEL MORGAN: I'm sorry. Failing of the
8 technology --

9 VICE-PRESIDENT HODGKINS: The levee.

10 STAFF COUNSEL MORGAN: So your desire is to see
11 the -- now on this high resolution image, you're talking
12 about -- here's the Knights Landing ridge cut, here's the
13 Sacramento River over here, and the project in this area
14 here. And you're looking for underseepage analysis here
15 is --

16 VICE-PRESIDENT HODGKINS: Is the red what is
17 proposed to be taken over for maintenance?

18 STAFF COUNSEL MORGAN: Correct.

19 VICE-PRESIDENT HODGKINS: That entire reach?

20 STAFF COUNSEL MORGAN: Just the red.

21 VICE-PRESIDENT HODGKINS: Or underseepage.

22 STAFF COUNSEL MORGAN: I'm sorry.

23 CHIEF ENGINEER BRADLEY: No. The red is the area
24 that has no maintaining agency assigned. About half of
25 that is no -- there's no levee. The portion along the

1 Knights Landing ridge cut is high ground. And as you turn
2 the corner on to the Colusa Basin drain there, before you
3 get to levee there's probably 200, 250 feet, and then you
4 start the levee and it goes to the northeast and hits the
5 Knights Landing ridge cut drainage --

6 VICE-PRESIDENT HODGKINS: Okay. Underseepage
7 analysis of the levees in the area is shown in red.

8 STAFF COUNSEL MORGAN: Okay.

9 VICE-PRESIDENT HODGKINS: If there's no levee, no
10 underseepage analysis. Okay?

11 STAFF COUNSEL MORGAN: All right. So your
12 interest is only in that the area -- in the area in red?

13 VICE-PRESIDENT HODGKINS: Yes.

14 PRESIDENT CARTER: Doesn't the entire community
15 of Knights Landing project included -- the applicant's
16 project included derive protection from the Sacramento
17 River levees as well as the Knights Landing ridge cut? Or
18 is the topography such that once you get southwest --
19 southeast of the Town of Knights Landing there's no risk
20 of flooding due to levee failure in those areas?

21 VICE-PRESIDENT HODGKINS: I think there's a risk
22 of flooding. But, again, my thinking -- and, remember,
23 I'm handicapped with an engineer's brain -- is the
24 applicant should only be held responsible for an
25 underseepage analysis in the area where he is

1 particularly -- potentially encumbering our access to the
2 levee in the future. The rest of that levee may all need
3 underseepage work. But it's an analysis that Rod will do
4 as part of his long-term analysis of all of these levees,
5 because we don't have anything in front of us that's going
6 to make it more difficult to fix them if we have to fix
7 them.

8 Now, the flooding analysis, it will require that
9 Rich and Steve, or whoever you designate, sit down and
10 think through which of the levees around this area if it
11 failed would result in the deepest flooding, and then
12 conduct the analysis for that particular levee. You can't
13 necessarily just determine that by looking at a map, I
14 don't think.

15 But can you, Steve?

16 CHIEF ENGINEER BRADLEY: I wouldn't think so.
17 This area is protected by levees on four sides.

18 VICE-PRESIDENT HODGKINS: Yeah.

19 PRESIDENT CARTER: Okay. So moving on.

20 MR. BOATWRIGHT: Okay. So where was I?

21 We are going to bring those levees at our cost up
22 to the state standards. And those state standards are the
23 3-to-1 slope, the placement of the all-weather access
24 material on the top of the road -- you know, all those
25 kind of things that you have to do.

1 And in addition to that, the regular maintenance
2 of the levee will be provided for through the Department
3 of Water Resources. So, again, that's another thing.

4 And with the homeowners association that is going
5 to be at the site maintaining the landscaping throughout
6 the site and doing mowing and all the people who are
7 living there, you're going to have extra sets of eyes to
8 make sure that that levee itself in this portion does not
9 have problems. And if there are problems, they're going
10 to call the appropriate people and get them out there
11 before it's too late.

12 I also want to let you know that I have a couple
13 of gentlemen here from the Town of Knights Landing who are
14 representatives of a couple of different groups and
15 represent a lot of people in Knights Landing, and they
16 would like to speak to this.

17 I also have here Richard Jenness, a Registered
18 Professional Civil Engineer, who can speak to the
19 construction of the levee itself and the height of the
20 subdivision. Now, the height of the subdivision, as I
21 mentioned before, is very important. It's higher than any
22 other home areas in town, with the exception of the indian
23 mound.

24 And this subdivision, in the event of a levee
25 breach elsewhere, could actually provide a haven, a safe

1 place for those people to go. They could park their cars
2 there up on the street. They could go to their neighbors'
3 houses and stay there while their homes, if they are
4 flooded a foot or two or three, could stay in a place that
5 would be a lot drier and higher than their home. So
6 that's another advantage that we're providing for the
7 safety of the existing homes there.

8 Let's see. In any event, as I said, we have our
9 grading permit and we are starting to proceed with the
10 grading. So that we will grade the portion of the project
11 that is outside of the jurisdiction of the Board. And if
12 we do not get a permit, then we will have to reconfigure
13 and lose a couple of lots -- two or three lots is what we
14 will lose there within that area. And then we will not be
15 able to do the levee improvement works.

16 So with that, I think I'd like to turn it over to
17 Mr. Jenness.

18 Oh, and I'd also like to mention that right there
19 next to Mr. Jenness, standing up right now, is John Raney
20 with Raney Geotechnical, who's done the geotechnical
21 surveys and the site slope stability analysis and seepage
22 analysis for the levee right there, and has also done the
23 soils engineering for the site itself. So if there's any
24 questions of him, you can certainly ask him those types of
25 questions.

1 PRESIDENT CARTER: So I have cards for Mr.

2 Jenness and Ms. Guerra and Mr. Green for this item.

3 Is there any specific order that we would like to
4 go?

5 MR. BOATWRIGHT: I think probably Mr. Jenness,
6 the two gentlemen from Knights Landing --

7 PRESIDENT CARTER: I don't have cards for them.

8 MR. BOATWRIGHT: Okay. Mr. Green, Mr. King; and
9 then Ms. Guerra can wrap it up. And any questions for our
10 geotechnical engineer as you see fit.

11 PRESIDENT CARTER: Great.

12 Mr. Jenness.

13 MR. JENNESS: Good afternoon. Rich Jenness,
14 consulting engineer with Laugenour & Meikle in Woodland,
15 as well as consulting engineer for a number of the
16 districts in the area, including the Knights Landing
17 Service District, Knights Landing Ridge Drainage District,
18 RD 730, and others.

19 I don't want to take too much of your time this
20 afternoon. I'm here to answer any questions you might
21 have on the project or the levee systems. I have
22 researched at least from the elevation data that we have
23 throughout this particular watershed area and looking at
24 the levee adjacent to the -- directly west of this
25 project, that is, the Colusa Basin drain levee, that the

1 elevation of that levee equals the river levee in this
2 same vicinity in elevation and currently is at least from
3 the high river stage in the levee from the 1957 Corps of
4 Engineers plans approximately three and a half feet of
5 freeboard there under that design condition.

6 And if you follow that levee on downstream, the
7 bottom of this basin to the southeast is the Yolo Bypass
8 levee. So should there be a levee break at any place, on
9 the Sacramento River, the Knights Landing ridge cut, or
10 this particular project levee, the flow would be in a
11 southeasterly direction and it would hit the Yolo Bypass
12 levee. That Yolo Bypass levee is approximately three feet
13 lower than the levee in the project area.

14 The water surface elevation during that break, at
15 least it's my educated guess, would be about the elevation
16 of the house pads or the finished floor elevation. And
17 from there, as the water would course in a southeasterly
18 direction through the community, the elevation drops
19 rather rapidly. It would drop four to five feet as it
20 reached the east side of the community. And of course
21 there's quite a low area at one particular crossing and
22 that is on County Road 16. I believe it's --

23 PRESIDENT CARTER: That one's on the computer.

24 MR. JENNESS: All right. County Road 16 is in
25 this area here. And the elevation of that levee is quite

1 low, so that gets bypassed in a hurry as the water flows
2 downstream then to the bypass -- the Yolo Bypass levee.

3 So, in essence, we are seeing the water level in
4 the community of Knights Landing would be flooded in a
5 severe river situation -- high river situation where there
6 was a levee breakage. And this particular project area
7 it's predicted at least that the -- in my opinion, that
8 the elevation would be very close to the finish floor
9 elevation of the homes.

10 SECRETARY DOHERTY: I have a question.

11 As I recall this area, it's almost as high as the
12 levee. What is the elevation at the top of the levee?
13 And if the elevation at the housing area is 33 feet, how
14 tall is the levee from there?

15 MR. JENNESS: The elevation of pads in the
16 development is approximately seven feet below the top of
17 the levee.

18 SECRETARY DOHERTY: It's a pretty high area.

19 MR. JENNESS: It is. Except most of the project
20 is on the frontage of the Colusa Basin drain. And the
21 Colusa Basin drain design elevation -- water surface
22 elevation is two feet below the river elevation. So in
23 that situation the design of the pads are approximately
24 the same elevations as the floodplain and the Colusa Basin
25 drain, but still two feet below the design river

1 elevation.

2 VICE-PRESIDENT HODGKINS: Now, Rich, if we looked
3 in '97, do you know what the differences would be?

4 MR. JENNESS: In '97 I believe the elevation of
5 the river was probably a foot to a foot and a half lower
6 than the design elevations that I'm quoting.

7 VICE-PRESIDENT HODGKINS: But not in the Colusa
8 Basin drain, was it?

9 MR. JENNESS: No, Colusa Basin drain was not
10 impact in '97.

11 VICE-PRESIDENT HODGKINS: It was the same level
12 as the river.

13 MR. JENNESS: No, it was lower, much lower.

14 VICE-PRESIDENT HODGKINS: It was?

15 MR. JENNESS: Yes.

16 VICE-PRESIDENT HODGKINS: So the gates were
17 closed the whole time?

18 MR. JENNESS: Yes. And as Steve mentioned, the
19 river was so high it flowed over the top of the outfall
20 gates into the Colusa Basin, because that Colusa Basin
21 elevation was quite low. We did not have the same
22 rainfall pattern throughout the Colusa Basin area that we
23 had in '95 and then again in '98, when we actually had
24 backup from the Yolo Bypass and a lot of rainfall in that
25 basin.

1 VICE-PRESIDENT HODGKINS: Okay. It sounds like
2 it's not going to be that hard to show that these houses
3 are above the elevation that would occur.

4 MR. JENNESS: It may not be.

5 VICE-PRESIDENT HODGKINS: Okay.

6 BOARD MEMBER BURROUGHS: I have a question. I'm
7 not sure if now is the time to ask it. But I was curious
8 about the 8-inch pipe and exactly where that would go and
9 the purpose of it.

10 MR. JENNESS: The purpose of the 8-inch pipe is
11 drainage of this particular development into the Colusa
12 Basin drain. And the reason such a small pipe is the
13 drainage system for this development is a detention basin
14 in this particular lower portion of the project. And the
15 detention basin stores the 100-year 24-hour event, with
16 metered flow then into the Colusa Basin drain. So that is
17 so that there's not an impact on the downstream water
18 surface elevation. In other words we're making a release
19 of no more than what would normally rainfall fall on this
20 particular project area.

21 BOARD MEMBER BURROUGHS: And --

22 MR. JENNESS: So it's a metered release.

23 BOARD MEMBER BURROUGHS: Yes. Okay.

24 And is it just one 8-inch pipe?

25 MR. JENNESS: Yes.

1 BOARD MEMBER BURROUGHS: Okay. Thank you.

2 PRESIDENT CARTER: Any other questions for Mr.
3 Jenness.

4 BOARD MEMBER RIE: Are you guys also filling in
5 dirt behind the levee?

6 MR. JENNESS: Yes. You mean on the project side?

7 BOARD MEMBER RIE: Yes.

8 MR. JENNESS: Yes.

9 BOARD MEMBER RIE: So if there was a seepage
10 problem, would that mitigate the seepage?

11 MR. JENNESS: It would modify that seepage
12 somewhat, yes, uh-huh, because approximately two feet --
13 one and a half feet to two feet of material going adjacent
14 to the levee. And in some respects some would argue that
15 it's acting as a berm -- a stability berm, but it -- and
16 it would influence somewhat the seepage in the area,
17 minimize it, let's say.

18 BOARD MEMBER RIE: Could you guys talk about what
19 geotechnical analysis you've done so far?

20 MR. JENNESS: Yes. I think I'd like to turn that
21 over to John Raney, who's done that analysis.

22 Thank you.

23 MR. RANEY: I'm John Raney of Raney Geotechnical,
24 West Sacramento. And we performed studies for the
25 subdivision itself when this issue arose and we were asked

1 to look at the condition of a levee.

2 Your question again is if we perform analyses to
3 assess seepage at this site; is that correct?

4 BOARD MEMBER RIE: I'm just curious what any sort
5 of geotechnical analysis --

6 MR. RANEY: Yes, analyses were performed. The
7 underseepage was considered in the fashion it would be
8 acceptable to Corps of Engineers. And the critical
9 gradient is on the order of 2. I think that's primarily
10 by virtue of the fact that the maximum water level in the
11 Colusa Basin drain is relatively low.

12 BOARD MEMBER RIE: Does our staff have copies of
13 all these geotechnical reports?

14 MR. RANEY: I don't believe -- I didn't provide
15 them, but the client may have.

16 PRESIDENT CARTER: Any more questions?

17 Did you get your question answered, Teri?

18 Thank you.

19 Mr. Green.

20 MR. GREEN: Good afternoon. My name is Wayne
21 Green. I'm the Chairman of the Knights Landing Citizens
22 Advisory Committee. I'm here to tell you what the
23 Citizens Advisory Committee came up with.

24 We're supporting Dan's Castle Homes project 100
25 percent. This project has been going on for three to five

1 years, and we need this development going. The town is
2 trying to grow. There's a lot of future developments
3 going on, three other ones. We need this. This town
4 is -- Knights Landing is going down the tubes. We need
5 the homes, we need the tax money. So I'm here to say that
6 we need this and Dan needs the permits.

7 Thank you.

8 Any questions?

9 Thank you.

10 PRESIDENT CARTER: Thank you.

11 Ms. Guerra.

12 MS. GUERRA: Thank you, President Carter, members
13 of the Reclamation Board. My name is Alicia Guerra,
14 attorney for Morrison & Foerster on behalf of Castle
15 Principles.

16 And first I just wanted to thank members of your
17 staff and also DWR and the Corps of Engineers in trying to
18 help us sort out this question that arose at your last
19 meeting in July about the maintenance issues. And we're
20 very appreciative of it. And I think that we've come to a
21 win-win solution for the existing residents of Knights
22 Landing as well as for this project and for the state.

23 I'd like to speak to two legal issues this
24 afternoon, and then also address Mr. Hodgkins' comments
25 and a couple of the conditions that were recommended here

1 this afternoon.

2 With respect to the maintenance and the
3 maintenance area formation, the reason that we believe
4 that DWR forming the maintenance area is a good thing is
5 because that obligation arises irrespective of what you
6 decide to do about this permit. But what's important
7 about this permit is it's only going to make it better
8 because then Castle can actually conduct the activities
9 that will bring the levees, that working levee in
10 particular, up to standards so that when a maintenance
11 area is formed, you're starting from a base that works for
12 everyone and minimizes the cost to the state or to anybody
13 should the local maintaining agencies decide that they are
14 going to accept responsibility.

15 And we did have a discussion with Mr. Morgan and
16 with Mr. Bradley this summer about making sure that
17 whatever is reflected in the statement for the cost and
18 for the work that's contemplated, that it's all based on
19 the assumption that the improvements are made. So we see
20 that as a good thing. And we see that as a really good
21 thing, because you have an O&M manual and a supplemental
22 O&M manual that are currently in place calling for these
23 things to be done that haven't yet been done, and you have
24 a developer here available who's going to do those
25 activities.

1 I'd also like to just remind the Board that that
2 O&M manual from 1953 and the supplemental manuals from the
3 later '50s, from '57 and '58, actually contemplated urban
4 development in this area. Those improvements -- those
5 levee improvements are actually designed to provide flood
6 protection for the Town of Knights Landing, again
7 irrespective of the number of units, where the houses are.
8 Urban development and flood protection are a part of the
9 adopted plan of flood control. And so we need to do
10 something to make sure that that happens in accordance
11 with what the federal government signed up for and the
12 State assumed for responsibility for those levee
13 improvements.

14 Secondly, I'd like to address issues concerning
15 the Board's authority. And I think, Mr. Hodgkins, you
16 made the comment about, you know, the Board and sort of
17 its role when it comes to land use decisions. And the
18 county has in fact already made a decision that urban
19 development is part of the Town of Knights Landing, just
20 like it was back in the fifties, and this project is
21 consistent with that.

22 The decision before you today however is really
23 just about: Is it okay to do these improvements to the
24 existing levees and specifically to an area that
25 unfortunately hasn't been maintained but that could be

1 improved to provide better flood protection?

2 And so really the question should be limited to
3 whether or not it's okay to be doing those four components
4 that staff described as part of the permit, rather than
5 the question of whether or not more homes should be
6 allowed. And I realize it raises some questions about
7 whether or not more people are going to be exposed to
8 flood risks.

9 But the fact of the matter is that the
10 improvements that are being proposed today are actually
11 being done with the effort to implement the adopted plan
12 of flood control. And, in fact, based on what's already
13 been approved, based on the fact that it's outside the
14 hundred-year floodplain, based on the fact there's already
15 maybe five or seven feet of freeboard being provided to
16 the area, the likelihood of exposing more people to flood
17 risks is actually reduced if this permit gets approved,
18 because then we'll have an opportunity for Castle to go
19 out and do the improvements.

20 So with that, we are -- I think Castle certainly
21 understands your concerns about the seepage analysis. And
22 you've heard from the geotechnical engineer. And
23 information was provided to staff that hopefully addresses
24 that concern. I guess we would just ask you to maybe
25 reconsider this issue of having to do a hydrologic

1 analysis, given the current design of the levees, given
2 what you've heard from Mr. Jenness, and given the fact
3 that this permit actually will enable the project to meet
4 the findings for issuance of the permit because it's all
5 being done to improve flood protection, avoid flood
6 obstructions, avoid the very things that would otherwise
7 be a basis for denial.

8 And then one last comment I'd like to make, which
9 is -- I think there was some question about what happens
10 with all the people who are already paying maintenance
11 fees. Are they going to get stuck with more maintenance
12 fees because they're now in a DWR maintenance area?

13 The goal is to try to minimize the costs to the
14 people in Knights Landing. And that's why you heard the
15 HOA is really taking most of the obligations for
16 maintenance costs. So that's really the process that DWR
17 will go through in trying to calculate the plan of cost.
18 And the goal is to really keep it to a minimum, so people
19 are getting the maintenance they thought they were getting
20 without having to have additional costs associated with
21 that.

22 If you have any questions or if I can be of any
23 assistance, please let me know. Thank you.

24 PRESIDENT CARTER: Questions for Ms. Guerra?

25 VICE-PRESIDENT HODGKINS: Did you in effect say

1 that the Board doesn't have the authority to ask for the
2 analysis of whether or not the houses are above the water
3 level in the event of a levee failure?

4 MS. GUERRA: What I said, Mr. Hodgkins, was that
5 I -- it's my reading based on the Board's authority and
6 the findings for issuance of a permit that -- the Board
7 certainly has public health and safety concerns that you
8 take into account. I completely agree. But in this case,
9 where the improvements are being proposed in order to
10 comply with the adoptive plan of flood control, to require
11 that the applicant go out and anticipate things for which
12 there's no evidence that there would actually be that
13 scenario -- I mean if the area is outside of a
14 hundred-year floodplain, so to assume that it's going to
15 be subject to the hundred-year floodplain and to do a
16 whole new analysis just because they're trying to do the
17 things to implement the adoptive plan of flood control
18 seems to me to go beyond what the findings are for
19 requiring that kind of condition.

20 And in this case, in particular where the flood
21 elevation has been -- and I'm not an engineer, so I'll
22 defer to Mr. Jenness on this. But where the adoptive --
23 where there's already sufficient freeboard provided to
24 anticipate the possibility of that happening, I'm
25 struggling with what the basis is for the applicant to

1 have to go and make other assumptions about scenarios that
2 really don't have anything to do with the improvements
3 they're proposing.

4 VICE-PRESIDENT HODGKINS: Okay. And my basis is
5 twofold:

6 Okay. First of all, I have talked to an
7 individual -- you heard Mr. Jenness say the design
8 condition is three and a half feet of freeboard. I've
9 talked to an individual who stood on the levee below
10 Knights Landing who says in 1997 there was no freeboard
11 and the water was up to the white line on the road on top
12 of the levee.

13 The second part of it is, that I know from my
14 experience that underseepage is a problem that was not
15 addressed when these levees were originally constructed,
16 and the shortcut for me is to say if these -- rather than
17 say you should wait until we know whether these levees
18 meet federal standards, and we'll ask if those are state
19 standards too for underseepage, simply analyze the
20 condition of whether or not these homes will be flooded if
21 a levee fails and not try and figure out whether it's
22 going to fail or not.

23 PRESIDENT CARTER: I'd like Dan to turn up my
24 microphone so I can be as loud as Butch.

25 (Laughter.)

1 VICE-PRESIDENT HODGKINS: All you have to do is
2 get close.

3 (Laughter.)

4 PRESIDENT CARTER: Also, with regard to the
5 hundred-year floodplain, as we speak that is being revised
6 by FEMA and others. And many people who are currently in
7 the hundred -- or outside the hundred-year floodplain are
8 being mapped into it. That's a moving target. And so
9 it's -- it doesn't hold water for some people at this
10 point, particularly considering the age of the levees
11 around there and the fact that I don't think that they've
12 been analyzed in recent history.

13 What I'd like to do is move on.

14 Mr. Mayer, you want to comment?

15 DIVISION OF FLOOD MANAGEMENT ACTING CHIEF MAYER:

16 Thank you. Yes, I did.

17 I wanted to clarify some of the things that I
18 heard in the discussions so that the Board has at least
19 the most accurate information that it can have.

20 With respect to the limits of the maintenance
21 area. When we looked at the assurance agreements, the MOU
22 that the Board signed with the Corps back in 1953, and we
23 looked at the O&M manual for this project in this area, we
24 did not see any defined end of a levee. Therefore -- and
25 when you read it, therefore what you see is a continuous

1 levee around the entire area.

2 And so my point is that there was discussion
3 about the MA limits being simply one piece of the red that
4 you see there on the screen and what I'd like to say is,
5 no, it will be the entire red, everything that is not
6 currently maintained. Whether there's high ground against
7 the levee or not doesn't change the fact that there's a
8 levee that needs to be maintained. So that's the
9 expectation. We will form a maintenance area covering all
10 of the red.

11 Secondly, there was discussion about how the cost
12 might be spread over the maintenance area. We have
13 decisions to make when we form a maintenance area about
14 whether or not we will create zones of benefit. Typically
15 in a situation like this -- and I think we could go out
16 and look at some other maintenance areas in the system --
17 we would likely have different zones. And the tendency
18 would be the people at the lower end may find a greater
19 benefit than the people at the upper end and actually be
20 assessed more per acre than the people at the upper end.
21 Of course in this case the people at the upper end are the
22 urban and the people at the lower end are the rural. We
23 will be looking at that. But that is a potential issue
24 that would be of concern to the community. Because it
25 would actually tend to spread the cost the exact opposite

1 way to what I think the desire is that I heard here today.

2 Finally, with respect to the maintenance area
3 itself. The way that the maintenance area process will
4 conclude and the maintenance area will be established or
5 not established is by coming to the Board and the Board
6 makes that decision. So I didn't hear that presented
7 earlier. And there was a little bit of uncertainty about
8 how it concludes. It's up to you whether or not to form a
9 maintenance area. Although in my view you won't have much
10 choice, because if you wouldn't form it, then there
11 wouldn't be anybody to maintain it.

12 The other thing I wanted to talk about is the
13 standards -- there's state standards. I've heard some
14 discussion about the state standards for improving the
15 levee. I'd like to be clear that that's more than just
16 grade and cross section. And I don't know what the permit
17 looks like or anticipates. But I would suspect that this
18 levee, not being maintained for many years, likely has a
19 lot of growth on it, a lot of roots in it that would need
20 to be cleared and rubbed out, a lot of burrowing rodent
21 damage that would need to be grouted; in addition to
22 restoring the grade, make sure it's the proper elevation
23 that it was constructed to, and the slopes waterside and
24 landside, as well as an all-weather gravel ground roadway.
25 Those are the types of things we would typically look at

1 in terms of basic maintenance.

2 Then Butch brought up other issues with respect
3 to seepage and underseepage that go beyond normal
4 maintenance. But they are definitely concerns.

5 The work that I just described, grouting and
6 other things, it doesn't matter a whole lot to me
7 personally who does them. But there does need to be
8 clarity, because we're going to write a statement of
9 necessary work in the near future which says we're going
10 to do that if somebody else doesn't do it. So if somebody
11 else steps up and does it, great. We won't have it in our
12 statement. But otherwise it will be in there and it will
13 be significant costs, including all the mitigation.

14 BOARD MEMBER RIE: I have a question for the
15 applicant --

16 MR. JENNESS: I'm Rich Jenness.

17 The improvement plans for the levee section in
18 question include everything that Rod has indicated, except
19 for those that Butch has mentioned that could be
20 additions. In other words, there's a gravel access road
21 that's going to be included, the foliage and trees and
22 brush will be removed from the levee, the levee section
23 will be recompact and restored to its -- well, better
24 than its original condition. It wasn't really installed
25 for the protection of people, lives, et cetera, in the

1 first place. So it will have to be that. And that's all
2 part of the application and the improvement plans that are
3 before the Reclamation Board now.

4 MR. BOATWRIGHT: Before I answer your question,
5 can I quickly say that the vegetation on the waterside is
6 not going to be completely removed. And in working with
7 the staff here, we came to the agreement that having goat
8 grazing on the waterside to remove the lower vegetation.
9 The bushes would be better. We're not going to remove the
10 oak trees that are already out there. And staff agreed
11 that that would be sufficient. It gave a lot of heartburn
12 to the environmental people in DWR if we were going to do
13 the wholesale removal of the riparian vegetation.

14 BOARD MEMBER RIE: I assume that before you do
15 any work if a permit is granted that DWR staff would be
16 reviewing the plans. And if there were something above
17 and beyond what you showed on your plans, such as filling
18 in burrow holes or putting in some extra dirt, if there
19 was a seepage problem in one location and not the other,
20 is that something that through working with our staff that
21 you guys would be willing to add extra things to the plan?

22 MR. BOATWRIGHT: Absolutely. In fact, in working
23 with staff, they -- we took a walk out there. And they
24 caught several other things that they wanted us to do.
25 For example, there's an old irrigation pipe that goes

1 through the levee they want us to remove. There are some
2 pilings in the levee that -- old pilings that they want us
3 to remove. So there's those sorts of things that we said,
4 absolutely, we want this to be a top notch levee and we
5 would do that.

6 PRESIDENT CARTER: Mr. Mirmazaheri.

7 MR. MIRMAZAHERI: I just have a few clarification
8 points.

9 Mr. Boatwright indicated that they have a permit
10 from the county. It is true they have a permit, but it is
11 conditional. It's conditioned on them obtaining the
12 Reclamation Board permit, unless of course they change
13 their plan. But as submitted now, it is conditional.

14 Second item is that it is true that the levee
15 work is going to be an improvement and for the betterment
16 of the levee. But the application again has four
17 components, you know, including the access ramps,
18 including the gravel on the top of the levee, and
19 including the 8-inch pipe. So it would be comprehensive
20 on all those four components if it's approved or a portion
21 of it -- whatever portion of it the Board approves.

22 Third item. Ms. Rie asked if the fill would act
23 as a seepage berm. I'm not sure if we can make that a
24 statement, because the fill is about maybe two feet or a
25 little bit more, and a seepage berm normally extends more

1 and it's got more weight on it. So I'm not sure if you
2 can make a statement that it would act as a seepage berm.

3 In terms of geotechnical report, yes, they have
4 submitted a geotechnical report which was done by Raney.
5 And a statement in that report is that because of -- due
6 to the layer of clay in the foundation of the levee and in
7 the levee itself, they don't think they -- they think
8 it's -- a potential for seepage is extremely low. And
9 that's the statement that was made in the geotechnical
10 report.

11 And last point is, the permit if granted to the
12 applicant does not authorize any work on the waterside.
13 It is pretty much as requested the work to be on the
14 landside only.

15 SECRETARY DOHERTY: Now, I have a question. If
16 we gave you permission to proceed to bring the levee up to
17 standard, could we break it out that way? Or does it have
18 to be all or nothing?

19 MR. MIRMAZAHARI: Are you asking me that
20 question?

21 SECRETARY DOHERTY: Yes, yes.

22 MR. MIRMAZAHARI: It's up to the Board, what
23 portion and how many of those components the Board would
24 like to improve or not. The applicant has requested that
25 the -- the application as submitted by applicant has four

1 components. But the Board will make the final decision of
2 which one to be included in permit -- the permit granted,
3 and which one not to be.

4 SECRETARY DOHERTY: But what I'm asking you, I
5 guess, is: Would the applicant be satisfied with that at
6 the present time?

7 MR. MIRMAZAHERI: I will let them to say if
8 they're satisfied with what portion.

9 MR. BOATWRIGHT: It depends exactly what you were
10 talking about. If you were -- I don't know which part
11 we'd pull out and not --

12 SECRETARY DOHERTY: Well, what I was asking is if
13 you brought the levee up to standard and within these six
14 months DWR agrees to maintain it, and then we gave you the
15 permit to put the pipe in, put the aggregate on the top,
16 put the toe on -- the fill on the toe, and the two access
17 ramps.

18 MR. BOATWRIGHT: If those were subject to us
19 bringing them up -- the levee up to standard, is that what
20 you're saying? Or would we have to come back separately
21 to get it approved?

22 SECRETARY DOHERTY: I'm asking you if you brought
23 the levee up to standard and we gave you that permit and
24 then the permit for the four other requests.

25 MR. BOATWRIGHT: Separately or if we --

1 SECRETARY DOHERTY: Separately. The four all at
2 the same time, after the levee was brought up to standard.

3 MR. BOATWRIGHT: Yes, if you said, "We will not
4 give you those other ones until you bring the levee up to
5 standard," yes, we would do that.

6 SECRETARY DOHERTY: That's what I wanted to know.
7 Thank you.

8 MR. BOATWRIGHT: Just real briefly to speak to
9 what Mike just said.

10 There are several Rec Board conditions as I
11 mentioned that we would comply with if they were in
12 addition to what our application -- four things were, as I
13 mentioned, removing the pipe or the pilings and those kind
14 of things.

15 The geotechnical report had conservative
16 assumptions in it. So it wasn't just the fact that there
17 was a clay layer. They made several assumptions in there
18 analyses that were above and beyond what actually they
19 found was there, just to give them a level of comfort, a
20 buffer there, a cushion. And it is true that our -- the
21 building permits are conditioned on receiving a Rec Board
22 permit. But if we reconfigured the project to stay out of
23 the Rec Board's jurisdictional area, then the permit from
24 the county would be different.

25 But I just wanted to make those points clear.

1 PRESIDENT CARTER: Any other questions, comments?

2 BOARD MEMBER BURROUGHS: I would like to know if
3 staff -- Steve, if you had a chance to -- did I hear you
4 right earlier, that you said you did not have a chance to
5 review this information since you've been on vacation?

6 And, in particular, I'd like you to also comment
7 on Butch's comment about the water being up to the top of
8 the road.

9 CHIEF ENGINEER BRADLEY: I don't know about the
10 water being up to the top of the road. I didn't work for
11 DWR during 1997. And I was not out in this area, so I
12 don't know about that.

13 As I said earlier, we received notice of DWR's
14 agreement to form a maintenance area yesterday about 3:30,
15 and I have not reviewed the permit in light of that. I
16 did know we had the geotechnical study. Or if I did, I
17 have not looked at it.

18 But I have not -- I don't have a recommendation
19 on this either way.

20 BOARD MEMBER BURROUGHS: I would like to propose
21 then that this not be voted on today until next month when
22 our staff has had a chance to review all the information;
23 and if all the information could be provided to our staff.

24 MR. BOATWRIGHT: And for the last meeting we did
25 provide that geotechnical seepage and slope stability

1 analysis to Mr. -- excuse me if I mispronounce --
2 Mirmazaheri. And so he has had that for a month and a
3 half now.

4 We would be happy to give Mr. Bradley time to
5 review that. And if it is not up to his liking or to
6 staff's liking, whoever is the person who reviews it, that
7 it would be conditioned on that. But I would really hate
8 to wait till November because -- or October because we
9 have that work ready to go now. And I'm afraid if we wait
10 till that point, we will not get that work done until next
11 year. And we'll have to wait until it dries out there
12 considerably, probably until May, something like that,
13 before we'd be able to do the work there, mostly because
14 of where you get the dirt from to fill.

15 I'm just going to do this quickly to respond to
16 Mr. Hodgkins' second condition that he has put forth. I
17 am hesitant to do that because I can't say for certain
18 that if there's a levee breach and the water comes up to a
19 certain level as the engineer determines, that it's not
20 going to be lapping at the front door or it's going to be
21 two inches into the house. I know that it's going to be
22 close from what the engineer says. But -- and I know it's
23 not going to be a health and safety situation where people
24 are going to be swimming and drowning in it.

25 I know it could be a problem in any existing

1 town. But where we're raised -- well, I know it's not
2 going to be a health and safety issue. But I don't want
3 to be that exact because I really would be putting myself
4 in a situation that I couldn't get out of technically
5 because it would be two inches or six inches too high.

6 SECRETARY DOHERTY: Mr. Hodgkins, where was this
7 person standing on the road in relation to the town
8 related to this project?

9 VICE-PRESIDENT HODGKINS: Is that up on a
10 computer screen?

11 SECRETARY DOHERTY: I've got a printout right
12 here.

13 MR. BOATWRIGHT: I can move the mouse down. You
14 can tell me when to stop.

15 VICE-PRESIDENT HODGKINS: You should ask your --
16 Tom knows, because he was out there when I was told about
17 this.

18 I need to find out for sure where I am here.

19 I think we were right in this area.

20 SECRETARY DOHERTY: So that's on the other side
21 of the Sacramento River or you were on --

22 VICE-PRESIDENT HODGKINS: Yeah, that's the
23 Sacramento River.

24 Right in their. I think right in there.

25 SECRETARY DOHERTY: So you were on the levee

1 road?

2 VICE-PRESIDENT HODGKINS: Yeah, we were standing
3 on the levee at the time. But I was not there during high
4 water. This was a field trip that was orchestrated by
5 Lewis and crew, that -- I don't know who from the Rec
6 Board attended about a year and a half ago. Well, Lynelle
7 was there and she said it was up to the white line.

8 And if you went and talked to Lewis -- I mean
9 part of their whole pitch is because Tisdale is not
10 cleaned out, it's shedding more water down the Sacramento
11 River. And there is a potential here in a large flood, if
12 that's not taken care of, to put more water down into the
13 Knights Landing area and cause a problem. And I just
14 don't feel good about the idea of approving something that
15 would lead to houses that might be at risk if that levee
16 is failed or overtopped.

17 BOARD MEMBER BURROUGHS: Hear! Hear!

18 PRESIDENT CARTER: Okay. Just a point of order.
19 I didn't realize that, RoseMarie, you made a motion. I
20 thought it was a suggestion.

21 BOARD MEMBER BURROUGHS: No, I said I move.

22 PRESIDENT CARTER: Okay. RoseMarie made a motion
23 to table this until our next meeting to give staff time to
24 review the additional documents and whatnot. Is there a
25 second?

1 Hearing none, we'll continue.

2 Are there any other --

3 BOARD MEMBER BURROUGHS: I would just like -- no,
4 I would just like to make a comment. That we've just come
5 out of a vacation period and I think as a board we need to
6 honor our staff by giving them time to review this
7 information. And with Butch's comments, I think even more
8 so.

9 PRESIDENT CARTER: Okay.

10 BOARD MEMBER RIE: Question for staff.

11 PRESIDENT CARTER: Is that a motion?

12 BOARD MEMBER BURROUGHS: I can make the same
13 motion again. I move that we table this approval until
14 next month, where our staff would have time to review all
15 of the information.

16 And, Jay, would you have any input on that as
17 well?

18 PRESIDENT CARTER: Let's find out. Is there a
19 second to the motion?

20 VICE-PRESIDENT HODGKINS: I guess -- I might --
21 I'd like to make a substitute motion, I think.

22 PRESIDENT CARTER: So there's no second for this
23 motion?

24 Okay. Go ahead.

25 VICE-PRESIDENT HODGKINS: Okay. And my intent

1 here in effect is to do exactly the same thing, but to
2 leave this in a way where if staff is satisfied, they can
3 go ahead and issue the permit, except for the fact that I
4 want also the analysis of whether these homes are high
5 enough to be above the water if the levee breaks as well.

6 So my substitute motion would be that we approve
7 the permit -- we approve staff's authority to issue the
8 permit upon receipt of an adequate geotechnical analysis
9 to substantiate that the levee doesn't have underseepage
10 problems and an a analysis of how deep the water would be
11 that shows the houses would be above it in the event that
12 one of the levees around here fails. So I'd accept the --
13 in terms of that analysis of how deep the water would be.
14 But I'm quite confident in delegating to staff looking at
15 those. And part of what I've done in the past is not
16 delegated to them, and then that gets my thoughts confused
17 in with theirs. And I can't do that -- I don't want to do
18 that anymore.

19 So that would be the substitute motion.

20 BOARD MEMBER RIE: I would be willing to second
21 Butch's motion as long as we could delegate to staff to
22 determine the level of analysis that would be appropriate
23 to look at the seepage and to look at where the houses are
24 at, consistent to what they usually ask of applicants. So
25 that would be a second.

1 PRESIDENT CARTER: Do you accept the
2 modifications to your motion?

3 VICE-PRESIDENT HODGKINS: I in effect was
4 delegating to staff the authority to determine the level
5 of detail required by those analyses.

6 BOARD MEMBER RIE: Okay. Second.

7 PRESIDENT CARTER: Okay. So Let me see if I
8 understood your motion and second.

9 The motion is to approve the permit subject to
10 staff conducting an analysis and being satisfied that
11 there's not an underseepage problem in the project levee
12 in the -- defined on the --

13 VICE-PRESIDENT HODGKINS: In the red area.

14 PRESIDENT CARTER: In the red area.

15 VICE-PRESIDENT HODGKINS: In the red area.

16 PRESIDENT CARTER: And that staff verifies that
17 the structures that are built by the project are above the
18 water surface elevation if the levee fails. And if
19 that -- is that any levee?

20 VICE-PRESIDENT HODGKINS: They will be in charge
21 of which levee should be analyzed.

22 PRESIDENT CARTER: Okay. So it's the levees that
23 surround the area.

24 VICE-PRESIDENT HODGKINS: Is that fair, Steve, or
25 not? Letting you decide which levee should be analyzed

1 for failure?

2 CHIEF ENGINEER BRADLEY: Well, you've asked for
3 what I would call the worst case scenario, any levee
4 failure.

5 My question is: If it shows the houses are below
6 the water surface, do we issue the permit or do we not
7 issue the permit? You've asked for an analysis. But what
8 happens with regard to the result?

9 VICE-PRESIDENT HODGKINS: Well, what I would hope
10 is -- it sounds like they're very close. My understanding
11 of what the county put on the permission -- the permit
12 down in Clarksburg was a foot above. I'm not proposing
13 that.

14 So I guess I'm saying come back to us if there's
15 not a way to approve this with the houses being above the
16 100 year. So if it -- not a hundred year? I didn't say
17 that. That would be failure.

18 I mean if you just need to raise them a couple of
19 tenths, raise them.

20 PRESIDENT CARTER: So it's subject to the staff
21 verifying that structures are above the water surface
22 elevation should any of those levees fail?

23 STAFF COUNSEL MORGAN: And just for specificity,
24 from a flood event with a 1 percent chance of a
25 reoccurrence.

1 VICE-PRESIDENT HODGKINS: I'm not even saying
2 that.

3 STAFF COUNSEL MORGAN: Well, you have to pick a
4 flood event.

5 BOARD MEMBER RIE: I think what we're saying is
6 we want the staff to determine the level of analysis that
7 they want to see. So we're delegating analysis
8 requirements to the staff.

9 BOARD MEMBER BURROUGHS: Yeah, I would say
10 that -- we're in discussion now, correct?

11 PRESIDENT CARTER: We -- did I restate the motion
12 correctly as seconded?

13 SECRETARY DOHERTY: Yes, you did.

14 VICE-PRESIDENT HODGKINS: I think so.

15 PRESIDENT CARTER: Okay. We all have an
16 understanding of what the motion is before us?

17 Okay. Discussion.

18 BOARD MEMBER BURROUGHS: I don't think it's fair
19 for staff to make the decision whether it's applicable
20 or -- that's what the Board is for in issuing the permit.
21 So I'm not in favor of the presentation of this motion.
22 And I'd also like to get Jay's input.

23 SECRETARY DOHERTY: I think that also we're
24 dumping our responsibility. And if it means that we have
25 to wait one more month, maybe we better wait one more

1 month till we have the answers to these things.

2 PRESIDENT CARTER: Mr. Punia.

3 GENERAL MANAGER PUNIA: My comment is that we
4 will allocate the resources to do the analysis. And if
5 it's so clear cut that geotechnical analysis shows that
6 there's no problem and we can run the analysis and show
7 that the houses are above the worst-case scenario, then
8 it's an easy answer. Otherwise we'll be coming back to
9 you for a decision in the next meeting.

10 So we will allocate resources so that we can get
11 this answer quickly. If it's so clear that it's based on
12 the direction I'm seeking, we will make the decision and
13 issue the permit. Otherwise we'll be back to you to seek
14 more guidance from you.

15 BOARD MEMBER BURROUGHS: One final comment in the
16 discussion is, Dan himself said that he was uncomfortable
17 that it may be as close as a two-inch difference between
18 the level of flooding for the houses.

19 GENERAL MANAGER PUNIA: I think one thing is not
20 clear, what type of frequency of flood does the
21 scenario -- he ran the model. So I think that that needs
22 to be verified, whether it's a hundred year or what type
23 of flows they used.

24 MR. JENNESS: Rich Jenness. What I was
25 contemplating is that we would use the 1957 design

1 elevations. That seems to be the standard, at least I
2 think, at this point that FEMA has used for floodplain.
3 But realizing that that may change in the near future as
4 well.

5 BOARD MEMBER BURROUGHS: I think that's a huge
6 mistake with FEMA's redirection and reanalysis. So I
7 would be uncomfortable using '57 and FEMA standard.

8 Thank you.

9 BOARD MEMBER RIE: And, Steve, what do you
10 typically ask for in terms of a flooding analysis? I mean
11 do we even ask for that on a typical application?

12 CHIEF ENGINEER BRADLEY: We do not typically ask
13 for that. This is somewhat of a controlled reach of the
14 river. I'm not sure how much difference the '57 design
15 profile would be from a hundred year. It may not be all
16 that much difference. The flow is forced out through the
17 Tisdale Weir. And the flow downstream of that is fairly
18 well controlled, in the neighborhood of 30,000, if I'm not
19 mistaken.

20 BOARD MEMBER RIE: And just from a legal
21 perspective, I mean do we even really have the ability to
22 ask the applicant to elevate their houses out of, you
23 know, whatever -- let's say we pick the 500-year
24 frequency. Can we say, "Raise your houses above the
25 500-year frequency; in return we'll give you a permit to

1 improve the levees"?

2 STAFF COUNSEL MORGAN: That's a tough question.

3 The fact is the Board when it issues permits can impose
4 reasonable conditions on those permits. And that's not,
5 as you can imagine, defined. So the Board has to decide
6 whether what it's asking an applicant is reasonable.

7 Clearly, an analysis of the levee that's being worked on
8 that is the actual subject of the permit is reasonable.

9 There's a direct nexus between the application and the
10 physical levees being worked on. And the Board has every
11 reason to want to make sure that that levee is safe and
12 that the work done on it is up to some standard.

13 I could make I think a reasonable argument that
14 the Board's responsibilities for public safety and flood
15 control give it that inherent authority to impose this is
16 to be a reasonable condition. But I guaranty there will
17 be someone who will make an equally reasonable argument
18 that it exceeds the Board's authority if this gets into
19 the local land use issues.

20 So that's something that the Board ought to be
21 considering when imposing a condition like this, that
22 there's -- you know, this goes even beyond I believe what
23 the Board did in the Three Rivers example.

24 BOARD MEMBER BURROUGHS: Thank you.

25 BOARD MEMBER BURROUGHS: Call for the question?

1 PRESIDENT CARTER: Question's called.

2 Shall we take a vote?

3 VICE-PRESIDENT HODGKINS: See where we are.

4 PRESIDENT CARTER: Okay. So everyone understands
5 the motion? Maybe if I just restate it.

6 The motion is to approve the permit subject to
7 staff conducting an analysis to determine that there's not
8 an underseepage problem and that they verify that the
9 structures that are to be built by the applicant are above
10 water surface elevation if any of the levees surrounding
11 the area fail.

12 VICE-PRESIDENT HODGKINS: There's a couple of
13 minor things. I didn't mean to put the burden of the
14 analysis on the staff. Okay? I think the analysis can
15 and probably should be done by the applicant, to staff's
16 satisfaction.

17 I think other than that you have pretty much the
18 flavor, yes.

19 PRESIDENT CARTER: So it's just the staff needs
20 to be satisfied that whoever does the analysis, they
21 review it and they're satisfied that it meets those two
22 conditions?

23 BOARD MEMBER BURROUGHS: Clarification. Was the
24 statement "levee failure or overtopping"? Would that be
25 two separate items?

1 VICE-PRESIDENT HODGKINS: It was levee failure.
2 I mean if they overtop and don't fail, there's not going
3 to be much in the way of a flooding problem on the
4 downstream side, until you get down to the Cache Creek
5 settling basin, because you can't put much water over the
6 top of the levee at an overtopping situation. It's when
7 it washes out, and now you've got seven feet of water
8 running through it, that there's a potential for people to
9 be trapped in that.

10 MR. BOATWRIGHT: Mr. Chairman, may I speak to the
11 motion briefly?

12 PRESIDENT CARTER: You want me to repeat the
13 motion?

14 MR. BOATWRIGHT: No, I wanted a clarification
15 that the levees he was referring to around the site
16 included all the Sacramento River Knights Landing ridge
17 cut levees or just the area around the project.

18 VICE-PRESIDENT HODGKINS: It is the levee -- all
19 of the levees. But the analysis would only be the one
20 that is likely to cause the area to flood.

21 PRESIDENT CARTER: Deepest flooding.

22 VICE-PRESIDENT HODGKINS: I promise you, Rich and
23 Steve can sit in a room and figure out which levee that
24 is.

25 Am I wrong, Rich?

1 MR. JENNESS: (Shakes head.)
2 VICE-PRESIDENT HODGKINS: No.
3 PRESIDENT CARTER: Okay. So that's the motion
4 before us.
5 Okay. Mr. Punia, would you call the roll.
6 GENERAL MANAGER PUNIA: Mr. Hodgkins?
7 VICE-PRESIDENT HODGKINS: Yes.
8 GENERAL MANAGER PUNIA: Ms. Teri Rie?
9 BOARD MEMBER RIE: Yes.
10 GENERAL MANAGER PUNIA: President Ben Carter?
11 PRESIDENT CARTER: No.
12 GENERAL MANAGER PUNIA: Lady Bug?
13 SECRETARY DOHERTY: Yes.
14 GENERAL MANAGER PUNIA: Rose Burroughs?
15 BOARD MEMBER BURROUGHS: No.
16 PRESIDENT CARTER: Okay. So the motion fails 3
17 to 2 -- 3 for, 2 against.
18 Where would you like to go from here?
19 VICE-PRESIDENT HODGKINS: I think that's the
20 question. Maybe Rose ought to remake her motion.
21 BOARD MEMBER RIE: This is a question for Scott.
22 Did we ever hear back from the Attorney General
23 on our quorum situation? Is it still 4 or is it 3?
24 STAFF COUNSEL MORGAN: Four members of the Board
25 are required to decide an issue.

1 BOARD MEMBER RIE: So that's the official word?

2 STAFF COUNSEL MORGAN: That's the official word
3 from me. Never asked the AG's opinion of that. That's
4 not an AG question.

5 BOARD MEMBER RIE: Okay.

6 VICE-PRESIDENT HODGKINS: I think we're at the
7 point where the Board has to make a decision. Are we
8 saying we're not going to approve this no matter what? Or
9 what do we need to get one more vote here? If somebody
10 can help me. Do we need to take something out of that
11 motion? What we need is some discussion to know where to
12 go, or at least I do. I don't really know how to go.

13 BOARD MEMBER BURROUGHS: I think, as Lady Bug
14 stated, I'm concerned about putting the authority of
15 accepting this application all on the staff's shoulders.
16 And I personally would like to hear the information and
17 then, as a board, approve it.

18 I would like to ask staff: About how long do you
19 think it would take to gather this information?

20 CHIEF ENGINEER BRADLEY: I think I'd like to
21 defer to Rich Jenness. I'm not sure how much he -- it
22 sounds like he's done some of the hydraulic studies.
23 Sounds like the geotechnical stuff is done. I would like
24 to touch bases with the Corps on that. I would like to
25 touch bases with DWR on the plans that are there and see

1 if there's anything. That's just their -- you know,
2 they're going to be maintaining it. Is there anything
3 that this developer's putting in, the pipe, in the design,
4 that they have problems with in their future maintenance?
5 Probably need to sit down with DWR and the developer and
6 work out exactly what will be done on the levee.

7 BOARD MEMBER BURROUGHS: I would still like to
8 restate that I think it's only fair to staff to give him
9 this time to work on it.

10 I have been told by staff that from one Board
11 meeting to the next there's already just a short amount of
12 time just to address and prepare from one Board meeting to
13 the next.

14 PRESIDENT CARTER: I guess the suggestion I'd
15 make is let the analysis go forward and bring it back to
16 the next meeting, agendize it for the next meeting.

17 VICE-PRESIDENT HODGKINS: So that's in effect
18 what is --

19 PRESIDENT CARTER: We'll continue it --

20 VICE-PRESIDENT HODGKINS: That's okay.

21 PRESIDENT CARTER: -- till October.

22 SECRETARY DOHERTY: And if in the meantime you
23 have the opportunity to visit, it's not far away and it's
24 a very visible site. And it would be good if you could
25 actually see it. I'd be happy to give anybody a tour.

1 PRESIDENT CARTER: Time's short. We probably
2 ought to move on.

3 Mr. Boatwright, do you have any closing comments?

4 MR. BOATWRIGHT: If I could just say one last
5 thing. I've got to tell you that waiting this extra month
6 is going to mean that we're going to have to wait until
7 next year. We're got the land use approvals from the
8 county and we've bought the property and we've got a lot
9 of cost invested in this, and this really is going to hurt
10 us to wait this extra month to do this. I really have to
11 let you know that we had counted on being able to come to
12 some kind of a resolution here with the Board to move
13 forward that would satisfy them. And so, you know, I'm
14 disappointed that this has not occurred. We put our
15 application in to the Board -- submitted our application
16 back in February of this year. So it's been seven months
17 that we've been going through this process. And it's just
18 excruciating to -- and costly to not have any kind of
19 resolution in a way to get a permit here.

20 PRESIDENT CARTER: I'm sorry for your
21 frustration. Hopefully we'll have your questions answered
22 in a month.

23 All right. At this time let's take a ten-minute
24 recess. We'll reconvene here at 3:10.

25 (Thereupon a recess was taken.)

1 PRESIDENT CARTER: Okay. Ladies and gentlemen,
2 let's go ahead and continue with our agenda. We just
3 wrapped up Item 13, which will be continued for October.

4 And we are on to Item 14, where there's no permit
5 actions.

6 So Item 15, the Delta Levee Subventions Program.

7 Mr. Mraz.

8 MR. MRAZ: Thank you, President Carter. General
9 Manager Punia, members of the Board.

10 Pleasure to be here again with you to talk about
11 the Reclamation Board's Delta Levee Subventions Program.

12 (Thereupon an overhead presentation was
13 Presented as follows.)

14 MR. MRAZ: As you're aware, the Levee Subventions
15 Program was developed in 1982 -- or '72 in response to
16 some flooding that occurred in the Delta that shut down
17 the water supply system. And the Legislature at that time
18 realized that there are a lot of assets in the Delta that
19 were protected by private levees, and they saw fit to
20 participate in the maintenance of those critical
21 structures through initiation of the Delta Levee
22 Maintenance Subventions Program.

23 So the current goal of the program is to reduce
24 the risk of land use and the associated economic
25 activities that are protected by the Delta levees, and

1 help to build them up to a Bulletin 192-82 cross section.

2 So we've been working on that for I guess about
3 30 years now and have made some pretty significant
4 improvements. But we've got still a long way to go.

5 --o0o--

6 MR. MRAZ: Our plan within the Department is to
7 maintain the currents that we've -- the improvements that
8 we've been able to achieve and to build the levees to a
9 higher standard.

10 --o0o--

11 MR. MRAZ: An of course I think you've all seen
12 this slide about what are the levee standards within the
13 Delta. We have urban and agricultural. And the ag
14 standard is the one that's applied generally throughout
15 the Delta. And the urban standard is only on a number of
16 islands where it's -- where there are sufficient homes to
17 require that.

18 The HMP standard there at the bottom on the left
19 is the one that FEMA uses to determine whether or not a
20 district is eligible for reimbursement under an emergency.
21 And in this past year I think we had about \$6 million
22 worth of levee work that was done on about 20 different
23 reclamation districts. There were only two of those
24 districts came up to the HMP standard and received some
25 funding back from FEMA.

1 So we have some work that we need to continue
2 doing and we need to help these districts get up to that
3 level so at least they can qualify for the federal
4 funding.

5 The long-term goal is to get to the PL 84-99
6 level so that they can be qualified for Corps of Engineers
7 assistance. There have been one I believe district
8 that has qualified since the program's inception. And I
9 believe that's MacDonald Island. We hope that with the
10 future potential funding, at least we'll be able to assist
11 additional levees in to getting to that standard.

12 --o0o--

13 MR. MRAZ: I wanted to just remind you of the
14 process that we use to implement the program. As you're
15 aware, each one of the reclamation districts -- and
16 there's about 65 of them out there in the Delta -- files
17 an application with the Department of Water Resources.
18 Those applications are due May 1. Department takes a look
19 at the funding that they're requesting, puts it into
20 categories -- puts it into categories and then separates
21 it out into a table -- and you have that table in your
22 packet -- that talks about how much is required under each
23 of those funding categories.

24 Based on our review we'll make a recommendation
25 to the Board today and ask for your approval.

1 Assuming that we get your approval, we will go
2 ahead and write work agreements with each one of those
3 reclamation districts. And in the meantime those
4 districts are working in reliance on having a work
5 agreement that will help them to carry out their
6 maintenance function.

7 In September the reclamation districts each file
8 a final claim. The Department, along with the Department
9 of Fish and Game and the reclamation district engineer,
10 will make inspections of the work, not to validate the
11 quality of the work, only to validate that the work was
12 done. The reclamation districts are solely responsible
13 for making sure that the work is up to standard and their
14 levees are adequate for going through the winter.

15 Once the inspections are completed we will make
16 payments based upon the approval that you give us today.
17 You will give us a maximum amount. And as long as the
18 payment level comes below that maximum amount, we'll go
19 ahead and make it. If it comes over and above that, then
20 we will come again to the Board and request approval of
21 the additional funding.

22 And, finally, we'll give you a tally of those
23 actual payments that we made once it's complete.

24 --o0o--

25 MR. MRAZ: We do have a set of procedures that

1 we'll talk a little bit about today -- and you have a copy
2 of it in your books -- where we provide the funding or the
3 reimbursements based on the categories that you see on the
4 screen here.

5 Maintenance: We'll provide up to 75 percent of
6 maintenance costs, to a maximum of I believe it's \$15,000
7 per levee mile. Once all those costs are paid, we will
8 fund Priority 1 elements up to \$100,000 per levee mile.
9 And Priority 1 is broken down into Reclamation Board's
10 highest priority. You've not chosen to use that at this
11 point.

12 Fish and wildlife.

13 Then hazard mitigation plan repairs.

14 And then Bulletin 192-82.

15 If those were all to receive 75 percent
16 reimbursement, then we would go on to Priority 2 and
17 Priority 3.

18 I need to talk just a little bit about the
19 reimbursement level. I've mentioned 75 percent a couple
20 of times. And that's assuming that AB 798 is signed by
21 the Governor. You may or may not be aware that the
22 subventions program sunsetted on July 1 this year. And
23 the funding level would have gone down to 50 percent of
24 the allowable or eligible reimbursable costs. And there's
25 some other provisions.

1 But the Legislature has seen fit to extend the 75
2 percent program and restore the funding that would have
3 been taken away. It has been enrolled. And as long as
4 the Governor signs it, we can go ahead and reimburse at
5 the 75 percent rate.

6 If the Governor does not sign it, we'll have to
7 drop our reimbursements down to 50 percent of eligible
8 costs.

9 --o0o--

10 MR. MRAZ: You have this brief flow diagram in
11 your packet. And it kind of leads you through the
12 procedures and guidelines that the Department will use to
13 prioritize funding and to make the final claims.

14 --o0o--

15 MR. MRAZ: I should have had this -- you know
16 what, I think I want to go back, with your permission.

17 One of the things that we have to do as a part of
18 getting your approval is to request approval and receive
19 your approval on the guidelines for making the payments.
20 And this is that -- the guidelines that we apply. And at
21 this point I would request your approval of the
22 guidelines.

23 And would be happy to answer any questions that
24 you may have have respect to this.

25 PRESIDENT CARTER: Go ahead, Butch.

1 VICE-PRESIDENT HODGKINS: I was going to move
2 approval of the guidelines. But I think there's
3 discussion first.

4 BOARD MEMBER RIE: I have a question.

5 Maybe I'm reading this wrong. But it seems like
6 we're only reimbursing \$6 million.

7 MR. MRAZ: That's correct.

8 BOARD MEMBER RIE: I don't -- is 6 million the
9 current year's allotment, or do we have 17 million?

10 MR. MRAZ: There's about \$17 million -- it's
11 actually about \$18 million that has come into the program
12 to run the entire program. The program of course includes
13 staff costs, it includes subventions costs, and it
14 includes special projects costs.

15 The staff costs are on the order of \$6 million
16 this year, which includes 3 million for the Delta levee --
17 I'm sorry -- Delta Risk Manage Strategy Contract. That
18 leaves about \$4 million to pay for the engineers and
19 environmental scientists and the administration that's
20 required by the Department.

21 There's \$12 million remaining. That \$12 million
22 is split equally between Subventions and Special Projects.
23 So you're -- the total within the Subventions Program is
24 \$6 million.

25 BOARD MEMBER RIE: Is there a possibility to

1 increase that \$6 million, that we could make it more?

2 MR. MRAZ: We would love to have you talk with
3 the Legislature about doing just that.

4 BOARD MEMBER RIE: So I mean are we pretty much
5 fixed that we have to allocate \$4 million for staff and --
6 I mean it just seems like we have more money going towards
7 staff and administration and studies than we have actually
8 going to subventions.

9 MR. MRAZ: In the current year I would agree with
10 you. There are some things that were mandated that we do.
11 One of them is develop a Delta risk management strategy.
12 That contract is a multi-year contract, and it's taken
13 about \$3 million out of the total pot that's available for
14 funding the program.

15 Other things that we are mandated to do is to
16 work with the Corps of Engineers, work with Fish and Game,
17 work with 60 different reclamation districts to process
18 the work agreements, do the inspections, watch out for
19 environmental mitigation, assure that all the unavoidable
20 damages, environmental damages are fully mitigated, and
21 develop programmatic enhancement of the environment just
22 to make sure that the -- that we can get these subvention
23 dollars out.

24 The other half of the program is Delta special
25 flood control projects. That is used to fund levee

1 maintenance and improvements that are particularly on
2 islands that are particularly critical to statewide
3 interests.

4 So to fulfill all those needs, the funding split
5 is about where it needs to be.

6 BOARD MEMBER RIE: How much money have we spent
7 on the Delta risk management study for this current year
8 and what is the status of the study?

9 MR. MRAZ: The study has been ongoing since I
10 believe about November of last year. We've got two and a
11 half million dollars from two years ago and last year's
12 funding that's being used right now. We've spent about
13 1.3 million of it. The contractor is on board. He has
14 finished his initial technical framework papers. They are
15 on the Department's website for your review and approval,
16 if you wanted to take a look at them and see what they
17 are.

18 We have deadlines coming up I believe at the end
19 of the year for our Phase 1 report. That's going to talk
20 about what the Delta assets are, what are the consequences
21 of sticking to the existing plan for maintaining and
22 improving the Delta. Then by about March -- no, I'm
23 sorry -- by August next year we will have the Phase 2
24 report that proposes how the risk to assets that are
25 dependent upon the Delta system can be reduced through

1 levee maintenance, combining with islands, flooding the
2 specific islands, and doing whatever else the consultant
3 determines is appropriate to reduce the risk to the
4 statewide interests.

5 Its on track, and it's moving on smartly, if I
6 may say so.

7 BOARD MEMBER RIE: Okay. So how much money have
8 we spent -- or how much of the 17 million is being
9 allocated for the study this year?

10 MR. MRAZ: This year, 3 million.

11 BOARD MEMBER RIE: \$3 million?

12 MR. MRAZ: Yes.

13 BOARD MEMBER RIE: And then plus we have the 2
14 million from the year before and the year before that?

15 MR. MRAZ: Yes. The funding for the entire study
16 is about \$6 million.

17 BOARD MEMBER BURROUGHS: Can you mention the one
18 consultant? Who is the consultant doing the work?

19 BOARD MEMBER RIE: Consultant -- the primary
20 consultant is URS Corporation. He's joined forces with
21 Jack R. Benjamin Associates. And they have about 20 or 25
22 sub-consultants, each of which is taking a piece of the
23 total project.

24 BOARD MEMBER RIE: Now, you said that the Phase 1
25 report is already out?

1 MR. MRAZ: No. Their initial technical
2 framework, it defines the assumptions or a number of the
3 assumptions and the -- the initial plan for conducting
4 this risk analysis. There are about 14 different pieces,
5 some of which are levee fragility sites in the city,
6 hydrology, global climate change, geomorphology -- I can't
7 remember the rest of them. But each one of these, the
8 consultant -- the sub-consultant takes a look at his
9 particular topic and says, "Okay, if I'm going to project
10 this topic for 50, 100 and 200 years into the future, what
11 are the assumptions that I need to make, what the guidance
12 that I need to have and how will they relate to the other
13 13 topics that are going to be covered in the study?"

14 They put -- each one of them has put together an
15 initial technical framework, and those are available right
16 now. The study is -- the risk model is in development,
17 and we'll have the Phase 1 report somewhere around the end
18 of the year.

19 BOARD MEMBER RIE: Now, would it be possible to
20 have the consultant team come before the Board and make a
21 presentation? I'm just curious, you know, what they're
22 doing for \$4 million this year.

23 MR. MRAZ: This is one of the things that builds
24 that \$4 million price tag and keeps it going higher. We
25 do bring these consultants in. And every time we make a

1 presentation to a body, they would like to hear it also.

2 So we'd be happy to have them come and speak with you.

3 BOARD MEMBER RIE: Okay.

4 SECRETARY DOHERTY: I have a question for you
5 too.

6 On page 3 of 7 on your Agenda Item 15, Attachment
7 A:

8 c. and d.: "Landside berms should be constructed
9 where necessary," dah dah dah dah, "highly compressible,
10 peat foundations." And on the next one, "In deep peat
11 areas, staged construction, consisting of periodic raising
12 of the levee..."

13 We know that the peat compresses, right?

14 MR. MRAZ: Yes.

15 SECRETARY DOHERTY: So are people paid year after
16 year after year to keep rebuilding these levees?

17 MR. MRAZ: That's correct. In the Delta there is
18 no choice.

19 SECRETARY DOHERTY: Is there an opportunity to
20 decide which Delta islands are important and which ones
21 are not?

22 MR. MRAZ: This was the genesis of the DRMS
23 Study. People have taken a look at the Delta and said,
24 "Well, heavens, we're maintaining 60 islands. And
25 certainly some of them are of critical importance to some

1 folks and others, well, it doesn't much matter whether
2 they flood or not. Maybe we need to take a look at it and
3 see how we can come to a determination." And DRMS is
4 charged with doing just that.

5 SECRETARY DOHERTY: And so when will that study
6 be completed? I think I've asked this question before.

7 MR. MRAZ: That's okay. We'll answer it again.
8 The report to the Legislature is due January 1,
9 2008.

10 SECRETARY DOHERTY: Okay.

11 BOARD MEMBER BURROUGHS: On the same page I have
12 a question. Why is there a difference between the
13 requirements for the levee crown? On the same page it has
14 a 16-foot crown, and then on e. it has a 12-foot crown.

15 Why wouldn't they all be 16 foot.

16 MR. MRAZ: Let me check with staff on that.

17 MR. LAWSON: I'm Dave Lawson. I work with Dave
18 as far as Delta Levee Subvention Program.

19 I think that this is pretty old language. It goes
20 back to '88. But I think they're talking about a new
21 alignment levee setback, which would not be on the
22 original levee cross section. Set back off the levee. So
23 it wouldn't be necessary to have a 16-foot crown on a
24 setback levee, I think.

25 BOARD MEMBER BURROUGHS: Although sometimes we

1 have setback levees and then they degrade the original
2 levees. So now we have a 12 foot instead a 16 foot.

3 MR. LAWSON: Yeah, this one -- and I don't know,
4 this is coming from some -- our Bulletin 192 criteria,
5 which was originally back in '82 -- 1982 is where that
6 criteria comes from. But you might see this on a habitat
7 levee, you know, that wouldn't have --

8 BOARD MEMBER BURROUGHS: I was just curious about
9 that.

10 And also there is a discrepancy on the waterside.
11 Sometimes it states 2 to 1 and other times it states 3 to
12 1. I was just curious as to why it wasn't consistent and
13 be all the same.

14 MR. LAWSON: -- get 1 1/2 to 1 in the Delta.

15 BOARD MEMBER BURROUGHS: Yes.

16 MR. MRAZ: There are some discrepancies that
17 we've seen in the guidelines over the years. And there's
18 been a number of attempts to work with the Reclamation
19 Board to clear those up. We would be happy to work with
20 this Board to do that, when and if you deem it's
21 appropriate.

22 PRESIDENT CARTER: I think if there are
23 discrepancies and what not, it's appropriate to clear them
24 up as soon as possible, don't you think?

25 MR. MRAZ: We'd love to have somebody to work

1 with to help us along in that task, yes.

2 PRESIDENT CARTER: Can we make that happen, Mr.
3 Punia.

4 GENERAL MANAGER PUNIA: I'll start talking to
5 Dave Mraz, and maybe we can report back to you in the
6 following meeting when we can allocate adequate resources
7 to get it done.

8 PRESIDENT CARTER: Okay. I had a question, Mr.
9 Mraz, on that. You said that the Rec Board hadn't chosen
10 to exercise its Rec Board top priority items or to follow
11 that process.

12 What is the form of that process in terms of the
13 Rec Board choosing top priority items?

14 MR. MRAZ: If there were something that you were
15 to see that would present an opportunity -- and I'll use
16 conduct a magnetic anomaly survey as just an example. If
17 you were to see value in that and wants to apply that with
18 a high funding priority to the whole Delta, then you could
19 declare that to be your highest priority. Then it would
20 receive funding right after we finish with the maintenance
21 and before we go into fish and wildlife.

22 PRESIDENT CARTER: Okay. And can that happen any
23 time during the courses of the that year?

24 MR. MRAZ: It can. If it occurs after the
25 approval of the program, it would have to go into the

1 following year's program.

2 PRESIDENT CARTER: Okay. And you're asking us to
3 approve the program today or just approve the guidelines?

4 MR. MRAZ: I will ask both the guidelines and the
5 funding.

6 PRESIDENT CARTER: Okay. So we really don't have
7 an opportunity or haven't had an opportunity to do that?

8 MR. MRAZ: Not since last -- well, no, you had
9 since last year to make a recommendation.

10 PRESIDENT CARTER: Right.

11 Okay. Any other questions or any comments?

12 BOARD MEMBER RIE: Do we need to vote on this
13 today or can we think about it and come back next --

14 PRESIDENT CARTER: How time critical is this?

15 MR. MRAZ: The reclamation districts are out
16 there working right now and in expectation of your
17 approval and in reliance on that. But it's your call.

18 PRESIDENT CARTER: So the time element is
19 essentially how soon they get reimbursed?

20 MR. MRAZ: No, it's a matter of comfort. Right
21 now they're under the impression, and I think rightly so,
22 that at some point in this year you will approve the
23 program at some level of funding. So they're out there
24 right now looking and they're saying, "Well, okay, the Rec
25 Board held off this month. What does that mean? Are they

1 going to approve \$6 million of funding? Are they going to
2 put conditions on it?" And then when you take that
3 decision -- or that question and you work it into their
4 maintenance plan, what they may say and what I'm told that
5 they have said for -- not for Rec Board reasons but for
6 legislative reasons, they hold off on doing the
7 maintenance that's necessary until they have some
8 assurance about what's going to come at them with the
9 program.

10 PRESIDENT CARTER: Okay.

11 BOARD MEMBER RIE: Mr. President, last year we
12 approved the program in November. So it seems like, you
13 know, we have a little bit of time to look this over
14 and...

15 PRESIDENT CARTER: Okay.

16 BOARD MEMBER BURROUGHS: I would concur with
17 that.

18 On page 5 of 7, on number C of P, it says,
19 "Widening the levee crown to 16-foot wide at an elevation
20 one foot above the 100-year flood frequency level." I
21 would like Scott Morgan or Nancy to address that legal
22 issue about if it's a foot above a hundred-year flood
23 level, on liability.

24 STAFF COUNSEL FINCH: Scott Morgan stepped out.

25 Nancy Finch. And I don't have that document in

1 front of me. So we will have to evaluate it after the
2 meeting.

3 MR. MRAZ: The document that that refers to was a
4 FEMA-generated document that came out in about 1988 or
5 '89. It's called a hazard mitigation plan. And they
6 prescribed specific cross section to use to evaluate the
7 readiness of the reclamation district to go into a winter
8 flood. And this is a verbal description of that cross
9 section. A pictorial one is down in the lower left of
10 this particular slide.

11 If the reclamation district -- or the levees all
12 around the district do not come up to that level, then
13 there's no reimbursement from FEMA.

14 PRESIDENT CARTER: And what's the difference
15 between the HMP and the FEMA in terms of physical levee
16 cross section?

17 MR. MRAZ: Well, one is for an urban levee. The
18 other is for an agricultural levee. The biggest
19 difference is that the FEMA urban levee requires three
20 foot of freeboard on a 100-year event; the HMP ag levee
21 requires one foot of freeboard on a 100-year event.

22 PRESIDENT CARTER: Okay. The picture with the
23 print being as small as it is, it looks like they have the
24 same slopes, same height, same crown and everything. It
25 looks the same from here.

1 MR. MRAZ: Yeah, it's a little hard to read on
2 that.

3 BOARD MEMBER BURROUGHS: Could we have a copy of
4 that picture?

5 MR. MRAZ: Certainly.

6 BOARD MEMBER BURROUGHS: I can't read the numbers
7 from here either.

8 MR. MRAZ: No, I understand.

9 This was a part of the packet last year and it's
10 exactly the same. But I'll be happy to provide that for
11 you.

12 PRESIDENT CARTER: Okay. Any other questions,
13 comments? What's the Board's pleasure here?

14 BOARD MEMBER BURROUGHS: Well, I think there are
15 several questions and it would be good to have the time to
16 at least get them answered.

17 I do have one other question on E. on page 6 of
18 7. And it says, "Providing turnouts, access roads and
19 ramps as necessary."

20 Do you have any kind of formula? Or how do you
21 decide what is necessary?

22 MR. MRAZ: The reclamation districts are the ones
23 that decide pretty much what's necessary for their own
24 operation. We'll take a look at it and make sure that it
25 meets a reasonable or lap test of whether or not you can

1 get floodfighting equipment up there and use that as a
2 judgment.

3 One of the things that I have to say is that
4 there's 1100 miles of levee in the Delta. About 400 miles
5 of it is project levee where the state has a real interest
6 and exercises a certain amount of control. The remaining
7 portion, about 700 miles, is private levee and most of the
8 subventions funding goes to those levees. And it's really
9 up to the individual reclamation districts to set the
10 standard and make sure that the levees are maintained to
11 their own local standard.

12 PRESIDENT CARTER: So what's the Board's pleasure
13 here? Does anybody have a suggestion, motion?

14 SECRETARY DOHERTY: Well, I'd like to make a
15 motion that we advance the funds as requested for their
16 priorities. They're not going to go away. So that's my
17 motion.

18 PRESIDENT CARTER: So you're moving to approve --

19 SECRETARY DOHERTY: -- the Delta Levee
20 Subventions Program funding priorities.

21 PRESIDENT CARTER: Okay. Is there a second?

22 VICE-PRESIDENT HODGKINS: I'll second.

23 PRESIDENT CARTER: So we have a motion and a
24 second.

25 Any discussion?

1 BOARD MEMBER RIE: In terms of discussion, didn't
2 you ask for us to set guidelines for you as well?

3 MR. MRAZ: I offered -- suggested that there is
4 an opportunity for the Reclamation Board to establish its
5 highest priorities. So if that's what you're referring
6 to. But these are you're guidelines.

7 PRESIDENT CARTER: And the guidelines I think
8 he's referring to are the guidelines that are outlined in
9 Attachment A of the Board package. It's titled, "Summary
10 of Delta Levees Subventions Program Prioritization and
11 Eligibility of Costs." So those are the guidelines.

12 BOARD MEMBER RIE: If Lady Bug could clarify.
13 Did your motion include voting on the Attachment A
14 priorities, or did you want to do that next month?

15 SECRETARY DOHERTY: Attachment A priorities.

16 BOARD MEMBER RIE: Okay. It did.

17 PRESIDENT CARTER: Okay. Any other discussion?

18 VICE-PRESIDENT HODGKINS: I mean I do think if
19 there's a desire to revisit these or to better understand
20 them, then it's appropriate to indicate to staff that
21 that's our intention and ask Dave to schedule an item to
22 go through these. And didn't we have a subventions task
23 force?

24 PRESIDENT CARTER: We did have a subventions task
25 group. And Emma was the representative on that. We no

1 longer have a representative from the Board on that
2 group -- that task group.

3 VICE-PRESIDENT HODGKINS: But that's not with
4 respect to this particular motion.

5 PRESIDENT CARTER: Right.

6 So any other discussion?

7 Okay. All those -- everybody understand the
8 motion? The motion is to approve the Summary of Delta
9 Levees Subventions Program Prioritization and Eligibility
10 of Costs, as outlined in Attachment A in your package.

11 All those in favor indicate by saying aye.

12 (Ayes.)

13 PRESIDENT CARTER: And opposed?

14 And I vote "aye" -- I vote in favor.

15 So there's four in favor and one opposed.

16 MR. MRAZ: Thank you very much.

17 PRESIDENT CARTER: I would like to ask that the
18 staff -- direct staff that they get together with Mr. Mraz
19 and resolve the discrepancies in the guidelines as soon as
20 practically possible.

21 MR. MRAZ: We'll welcome the help and interest,
22 and be happy to come back at any time and talk with you
23 about not only any changes that are necessary, but also
24 the guidelines as they exist.

25 BOARD MEMBER RIE: And also if we could have a

1 presentation on that study in December, that would also be
2 nice.

3 MR. MRAZ: Sure.

4 PRESIDENT CARTER: Okay.

5 MR. MRAZ: Just to finish up the Subventions
6 Program.

7 The Legislature did allocate \$6 million for this
8 program this year. And as you can see by the board that's
9 on up the screen, the reclamation districts propose doing
10 \$48 million worth of work. And the maintenance and fish
11 and wildlife costs and all the categories for the
12 guidelines that you have just provided us are listed
13 there.

14 The majority of the work is in Priority 1.
15 However, all of -- based on their projections, all of the
16 funding will go into maintenance. And the program this
17 year will be able to reimburse about 64 percent of
18 maintenance only.

19 Now, when the final claims come in they will be
20 significantly different than this. So we would expect
21 that ultimately we're going to end up reimbursing about 75
22 percent of maintenance, 75 percent of fish and wildlife,
23 and somewhere on the order of 20 percent of HMP costs if
24 history holds true.

25 PRESIDENT CARTER: So you're saying that the

1 actual maintenance costs would be significantly less than
2 what they are asking for at this point?

3 MR. MRAZ: Yes, sir. They generally come in with
4 pretty highly inflated claims -- or, I'm sorry --
5 generally highly inflated application values. And the
6 Department takes a look at the actual money that they
7 spend and evaluates each one of the invoices that they
8 have already paid, and that's what we base our
9 reimbursement on. We do not reimburse based on the
10 application amount. We reimburse on the actual bills that
11 they pay.

12 So I would request your approval of a \$6 million
13 program. And the funding table that you have in B
14 contains in column 4 the maximum reimbursement amount if
15 we had all of the funding that -- the maximum
16 reimbursement amount to get to -- no, I'm sorry -- maximum
17 reimbursement amount if we had all the funding that we
18 needed, and that would be about 38 -- or \$35 million will
19 reimburse according to column 6 based on the numbers that
20 they provided us.

21 PRESIDENT CARTER: Just so we're talking hard
22 dollar figures, you're saying that the maximum
23 reimbursement amount is 35,707,000, more or less?

24 MR. MRAZ: Yes.

25 PRESIDENT CARTER: And you expect to be able to

1 reimburse 4 and a half million of that 35.7?

2 MR. MRAZ: Well, we expect to reimburse 6 million
3 of that 35 million. If we were to make advances before
4 all the work was complete and before we see the invoices,
5 then we could advance up to about 4 and a half million.

6 PRESIDENT CARTER: Okay.

7 So if the Board's pleasure, he has made a request
8 to approve the reimbursement amounts listed on Attachment
9 B.

10 VICE-PRESIDENT HODGKINS: So moved.

11 PRESIDENT CARTER: And is there a second?

12 SECRETARY DOHERTY: I'll second it.

13 PRESIDENT CARTER: Okay. We have a motion and a
14 second.

15 Any discussion?

16 Okay. I wish it were more. But I wish the
17 Department would figure out how to be more efficient at
18 taking 17 and turning it into more money that's going into
19 the bricks and mortars than studies and staff and
20 overhead.

21 That's my comment.

22 BOARD MEMBER BURROUGHS: I ditto that comment.

23 PRESIDENT CARTER: Okay.

24 VICE-PRESIDENT HODGKINS: Could I ask a question
25 on this one. There's \$17 million appropriated for the

1 Delta. Now, does the Legislature include the earmark
2 beyond the 17 million in terms of 6 million for
3 subventions and so much for staff, or is that all DWR?

4 MR. MRAZ: It's a combination. The Legislature
5 of course approves each one of the positions that the
6 Department has and requires that we do certain studies and
7 certain actions with it.

8 The Legislature has given us guidelines that they
9 would like the subventions and special projects programs
10 to be funded about equally. And that's how we get our
11 breakdown.

12 VICE-PRESIDENT HODGKINS: Okay. Thank you.

13 BOARD MEMBER RIE: Who's approving the \$4
14 million? Are we approving the -- once the legislation is
15 signed, are we approving that \$4 million be allocated
16 towards the study and only 6 be allocated towards
17 subventions?

18 MR. MRAZ: No, that's one of the rights that the
19 Legislature reserves for themselves. They sell us that we
20 have to do the study, and we just get to carry it out.

21 BOARD MEMBER RIE: Okay. But we do have some
22 control over how much it costs though, don't we?

23 MR. MRAZ: I think not at this point. The
24 contract was drawn up and awarded about a year ago. So
25 the -- I think that most of the control really lies in the

1 hands of the consultant at this point. We told him what
2 it is that we want. He's told us what it's going to cost.
3 And now he's working on that gross amount that he's bid.

4 BOARD MEMBER RIE: Have we exceeded the costs
5 that we contracted with the consultant for? Or are we
6 right on target?

7 MR. MRAZ: We're actually under budget.

8 BOARD MEMBER RIE: Under budget?

9 MR. MRAZ: Yes.

10 BOARD MEMBER RIE: Okay.

11 PRESIDENT CARTER: Okay. Any other discussion?

12 Okay. We have a motion before us to approve the
13 Delta Levee Maintenance Subventions Program reimbursements
14 as listed on Attachment B.

15 Any questions on the motion?

16 BOARD MEMBER RIE: Just one last question.

17 Reclamation District 2074 requested \$11.5
18 million. But we're only giving them 31,000.

19 Why is that?

20 MR. MRAZ: Sargent-Barnhart is a district that
21 has pretty good levees to begin with. They're an urban
22 area. And some years ago they built the levees up to a
23 very high standard. So consequently the maintenance that
24 they have to do is pretty small. They have no HMP. All
25 of -- virtually all of the work that they have to do on

1 the levees is rolled into a higher -- how should I say
2 it? -- Priority 2 or Priority 3. And given the small
3 budget that we have in the program, there's no funding
4 left by the time we get to those categories.

5 BOARD MEMBER RIE: Okay.

6 MR. MRAZ: That may change next years with the
7 bonds. But we'll see.

8 PRESIDENT CARTER: Okay. So time to vote.

9 All those in favor indicate by saying aye.

10 (Ayes.)

11 PRESIDENT CARTER: And opposed?

12 Motion carries unanimously.

13 MR. MRAZ: Thank you very much.

14 PRESIDENT CARTER: Anything else?

15 MR. MRAZ: I think that's it.

16 PRESIDENT CARTER: Thank you, Mr. Mraz.

17 BOARD MEMBER BURROUGHS: I do have one last
18 question on this issue.

19 Did we set up a meeting to review or did we leave
20 it up to staff to review?

21 PRESIDENT CARTER: Review the guidelines?

22 BOARD MEMBER BURROUGHS: Discrepancy in the
23 guidelines, yes.

24 PRESIDENT CARTER: We left it up to staff to set
25 that up with Mr. Mraz.

1 BOARD MEMBER BURROUGHS: Okay.

2 PRESIDENT CARTER: If you would like to
3 participate, I'm sure you'd be welcome.

4 BOARD MEMBER BURROUGHS: Oh, I just -- I don't
5 need to participate. Put I would like to know just who to
6 direct some questions to. So I'll give it to you, Jay.

7 Thank you.

8 GENERAL MANAGER PUNIA: We'll talk to Dave Mraz
9 and then we'll go back to the Board.

10 PRESIDENT CARTER: You'd follow up with
11 RoseMarie?

12 GENERAL MANAGER PUNIA: Yes.

13 BOARD MEMBER BURROUGHS: Thank you.

14 PRESIDENT CARTER: Very good.

15 Item 16, Status Update on a Conceptual Project
16 Modification for Application No. 18023.

17 Mr. Bradley.

18 CHIEF ENGINEER BRADLEY: Yes. For the record,
19 Steve, Bradley Chief Engineer to the Board.

20 This was requested by the Board. We have an
21 application for the overall project, the CPM, the
22 conceptual project modification, is the overall approval
23 of everything that River Islands will be doing.

24 The issue that will be coming before the Board is
25 not approval of the application at this time. It's

1 actually the consideration of sending a letter to the
2 Board requesting that the project -- the federal flood
3 control project be modified.

4 The so-called Section 408, I know there's been
5 some discussion whether that applies or not. On this
6 application the Corps specifically told us that it would
7 be done under 408. This was the very first one.

8 This is a letter probably that should have been
9 sent a long time ago. We've kind of hacked through this
10 process of modifying the project and how you go about it.
11 But basically that will be the action that the Board
12 takes.

13 The Corps is in the process of doing an EIS.
14 River Islands project has federal actions. They've
15 triggered 404. I believe they will trigger Section 10.
16 Section 408 will also be included in their EIS process.

17 So once we -- if the Board decides to send a
18 letter, that action will also go with the EIS -- be
19 evaluated as part of the EIS.

20 Before sending the letter there's a few things
21 that need to happen. We need an LMA assurance agreement
22 or acceptance agreement that they're going to accept the
23 project when done. We need to discuss the specificity of
24 the applications so that when I bring it to you, I know
25 exactly what they're asking about, asking to have done,

1 and can explain that properly. We need a discussion --
2 overall discussion of the hydraulic impacts. We have a
3 hydraulic peer review that's been done. I sent a letter,
4 it actually went out yesterday, asking for a peer review
5 report, with very specific comments as to whether certain
6 things are acceptable or unacceptable.

7 There was also the question of using -- that was
8 raised by NRDC of using the Stewart Tract for a flood
9 bypass. The Department of Water Resources evaluated that.
10 Again, when this comes before the Board, that will be
11 something that will be discussed and presented so that the
12 Board has all the information to make a decision at one
13 time. We won't be piecemealing the presentations. And,
14 finally, then there will be the staff recommendation on
15 whether to proceed with that or not.

16 Finally, after that then the Board makes a
17 decision of whether to send that letter or not. Sending
18 the letter to the Corps is going to be more or less the
19 Board's endorsement of the project. So rather than --
20 you're not going to be issuing a permit at that time. But
21 you will be issuing a request to the Corps to modify the
22 project, and that you've agreed that modifying the project
23 is the thing that should be done. So it would be your
24 endorsement of this.

25 When the Corps receives that and they complete

1 their EIS analysis, they will provide us comments back,
2 allowing -- you know, agreeing that the project can be
3 modified or denying it. That's the Corps's project. They
4 will decide whether that can be done or not. They won't
5 make that determination until the EIS is complete. So
6 even if we send this letter, it's probably two to three
7 years at the best before we get an acknowledgement of
8 whether we can -- the project can be modified or not.

9 After receiving Corps comments, if it's for
10 approval, then the Board can consider approval of a
11 permit.

12 My goal at the moment is probably to bring this
13 to the Board about November. Although It depends on when
14 I get the comments on the peer review. I've asked the
15 applicant also to resubmit the study of the hydraulic --
16 the hydraulic report they submitted. I had some comments
17 on it. It was very difficult to refer to and use, and it
18 was poorly worded. So I asked that that be redone and
19 resubmitted. The information -- the studies do not, I do
20 not believe, have to be redone. It just needs to be --
21 the report needs to be reorganized. They also have that
22 letter. And so that's something else that will come in.

23 But there again, like I said, it's sometime in
24 the November, maybe December -- it certainly won't be
25 October -- before we're ready to hear this.

1 Are there any questions about the process, what
2 the Board is going to be doing, what I'm going to be
3 doing?

4 PRESIDENT CARTER: Are there any questions from
5 the Board?

6 BOARD MEMBER BURROUGHS: On the peer review
7 report, how many different people are involved in that?

8 CHIEF ENGINEER BRADLEY: We have -- there's one
9 consultant, NHC Hydraulics.

10 BOARD MEMBER BURROUGHS: Thank you.

11 PRESIDENT CARTER: Mr. Bradley, so if I can
12 just -- I'm just trying to make sure I understand this
13 process.

14 The Corps is conducting their EIS. You need a
15 peer review with regard to the hydraulic analysis. You
16 need an LMA from the applicant. And at that -- and at
17 that point you have enough information to make a staff
18 recommendation? Or do you also have to wait for the Corps
19 to complete their EIS?

20 CHIEF ENGINEER BRADLEY: No, because we're --
21 although they're proceeding with their EIS -- and they
22 told us that any approval to move the federal levee would
23 be done under Section 408 -- they're already proceeding on
24 that. What we have not done is send them a formal request
25 asking that the project be modified. We are a cost share

1 partner for the Corps and provided assurances. It's up to
2 us to make that request. The applicant cannot do that.
3 It has to come from the Board to the Corps to ask that
4 this project be modified. And so we will have to send a
5 letter -- we did the same thing with Three Rivers Levee
6 Improvement Authority. We asked -- we sent a letter to
7 the Corps asking that the setback levee be considered.

8 PRESIDENT CARTER: Okay.

9 CHIEF ENGINEER BRADLEY: On that one I don't
10 believe we asked for it as 408. We asked for them to
11 consider it under whatever law they wanted.

12 This case we -- we probably can write the letter
13 the same. But they've already told us it will be done
14 under 408. That was done probably two years ago.

15 BOARD MEMBER RIE: So would it be very similar to
16 a letter we sent for Three Rivers, which was in response
17 to your letter, which they sent, I think it was in 2005,
18 "We are requesting you to initiate a review or the
19 process"?

20 CHIEF ENGINEER BRADLEY: Right.

21 BOARD MEMBER RIE: Something similar?

22 CHIEF ENGINEER BRADLEY: It would be very
23 similar.

24 What we're asking is that the project that has
25 been turned over to us be modified in ways that the

1 project applicant is requesting, and we agree that this is
2 good.

3 PRESIDENT CARTER: So the action that you'd be
4 expecting from the Board -- that you'd be requesting from
5 the Board in November, if you're ready, is approval of a
6 letter to be sent requesting modification of the project?

7 CHIEF ENGINEER BRADLEY: That is correct.

8 BOARD MEMBER RIE: And it doesn't mean that the
9 project will be modified; it's just approving to send the
10 letter?

11 CHIEF ENGINEER BRADLEY: That's correct. You're
12 asking -- you're asking the Corps to consider modifying
13 the project as the applicant has provided to us, unless we
14 change that for some reason. But --

15 PRESIDENT CARTER: And then that November request
16 will be simply the letter, or will it also be approval of
17 the application?

18 CHIEF ENGINEER BRADLEY: It will not be approval
19 of the application at that time. It will be only approval
20 of the letter. There's no way you can issue an
21 application when the Corps has not said you can do
22 anything there.

23 PRESIDENT CARTER: Okay. So then --

24 CHIEF ENGINEER BRADLEY: And, again, you don't
25 know what their comments are going to be. They may agree

1 to part of it and not agree to part -- other parts of it.

2 PRESIDENT CARTER: So then we will expect at some
3 time after that comments from the Army Corps of Engineer
4 with regard to a request of project modification, and then
5 on that basis we -- and they will have completed their EIS
6 at that point, we'll have the benefit of that in terms of
7 making a consideration for approval of the permit?

8 CHIEF ENGINEER BRADLEY: That's correct. Now,
9 they won't -- they will not provide us a response until
10 the EIS is complete. We can ask for the modification at
11 any time. They just will not respond until their EIS is
12 complete. We could wait till the EIS is complete and then
13 ask for the modification. But either way they won't
14 respond until the EIS has been completed. They have to
15 determine the impacts on the federal project.

16 PRESIDENT CARTER: Thank you.

17 Any other questions?

18 Okay. Thank you very much.

19 VICE-PRESIDENT HODGKINS: Briefly, Steve. You
20 indicated that you're not certain when you'll get the
21 hydraulic peer reviewed report. Is not that under our
22 control? I mean can't you ask those folks to set a time
23 that they will deliver that and then give us a more
24 committed schedule? Or is it our own staff that's doing
25 it?

1 CHIEF ENGINEER BRADLEY: No, I probably could. I
2 wrote -- well, I sent them a letter, very specific request
3 in it. I will probably call them next week. That letter
4 probably went out yesterday. They probably will get it
5 either today or maybe Monday. I will probably -- I would
6 expect to get a call from them, if nothing else. And
7 discuss with them when we can -- I could expect that. And
8 that's a big part -- from my point of view, that's a big
9 part of proceeding with the recommendation of the Board.
10 Now, I think there was a lot of work done on the
11 hydraulic. I think we're in pretty good shape. I would
12 like to know if there's any little glitches and if they
13 were significant or not significant.

14 A model is never done, in my opinion. And so
15 just because there's something that wasn't addressed
16 doesn't make a significant difference. And I asked those
17 very specific -- I asked for a specific, that this is good
18 or it's not good.

19 VICE-PRESIDENT HODGKINS: Okay. Just it would be
20 helpful for me if when you know that, you could take what
21 you've said today and just put it in a simple memorandum
22 as a preliminary schedule for River Islands. Because I --
23 I don't want to borrow trouble here. But I suspect that's
24 going to be a big item when it comes in here. And so
25 knowing when it's going to come could be important in

1 terms of juggling other things that we have to deal with.

2 PRESIDENT CARTER: Okay.

3 CHIEF ENGINEER BRADLEY: Also for me, I'm going
4 to do the next item, and I'll talk a little bit about the
5 things that are in front of me at that time.

6 PRESIDENT CARTER: Okay. Very good.

7 On to Item 17, Status Update of West Sacramento
8 Riverwalk Promenade Project.

9 Mr. Bradley.

10 CHIEF ENGINEER BRADLEY: Yes. This won't take
11 very long.

12 We received the application on August 29th. It
13 doesn't have CEQA, so the application is not complete.
14 But this is a Catch 22. They need some direction from,
15 more or less, myself. The issues I believe are technical
16 rather than -- although some of them may turn out to be
17 policy as to what elevations we request.

18 But I need to do some technical work to decide
19 where we are and whether it needs to come to the Board.
20 Before they can design their project to do the CEQA for --
21 or identify the project, they want to do the CEQA for it.

22 I haven't really had time to work on this.
23 They've asked -- they've sent some letters, but we didn't
24 really have an application. And there were plenty of
25 things in front of me this year so far.

1 The things that are left in front of me: I'm
2 about to complete all of River Islands stuff except for
3 the CPM stuff. And we've issued the construction permit
4 for filling in the levee. I'm working on the permit for
5 the easements. It's kind of a strange permit, but --
6 because they're not really asking for something, they're
7 just defining things in there. I issued the letters to
8 the hydraulic firm and to the applicant for some revised
9 information.

10 So I think River Islands is coming to an end.

11 I do have to make comments on the Sacramento
12 River Corridor Planning Forum guidelines. That will --
13 I'm estimating that will take me about a week of time if I
14 can get a day or two of uninterrupted time. That's been
15 very difficult lately.

16 And then I plan on looking at the issues on West
17 Sac. And they have to do as to what level of study we're
18 going to ask, what those elevations are. If they ask for
19 a higher level of elevation on West Sac than is on
20 Sacramento side, are we causing impacts -- third-party
21 impacts?

22 So there's some questions that are floating
23 around out there that I need to address. That will take
24 some time to do.

25 There is also after today the issue with CASTLE

1 properties and the flooding and review of that. Plus then
2 at the end of that, there's also the CPM permit for River
3 Islands.

4 So all these things are fairly big issues that
5 fit among the normal work that goes on.

6 So my schedule is to finish the Sac River
7 Corridor Planning Forum in the next couple of weeks, and
8 then proceed that up with working on West Sac, at least
9 the issues there and whether I need to bring something to
10 the Board as a policy. There is no application, but you
11 may be asked to -- for a policy.

12 Are there any questions on that?

13 PRESIDENT CARTER: Any questions?

14 Just a comment. I would suggest to General
15 Manager Punia and to you, Steve, that you review with Jay
16 what's on your plate and let's figure out a way to get
17 some throughput on some of this stuff. And whether it
18 means changing priorities or shifting some of the projects
19 to other folks and have your role be more of a review as a
20 chief engineer or something like that, but we need to get
21 some throughput on some of these things. There are a lot
22 of big issues, but those aren't going to go away. We need
23 to get it through.

24 CHIEF ENGINEER BRADLEY: Right. These are the
25 big issues. I mean there's the day-to-day work that goes

1 on too. There's the coordination meetings with
2 applicants. There's the meetings with permit staff on a
3 regular basis. There's a review of permits that are being
4 issued before they're passed on to the General Manager for
5 signature.

6 PRESIDENT CARTER: Okay. I do have a card.
7 Mr. Toppenberg or Mr. Bowman or Ms. Zuspan.
8 You're one of those three?

9 MR. TOPPENBERG: I am, Mr. Carter. I'm Val
10 Toppenberg. I'm the Director of Redevelopment and
11 Economic Development for the City of West Sacramento.
12 Thank you very much for having this on your agenda today.

13 The development of the riverfront in West
14 Sacramento has been one of our highest priorities since
15 the city incorporated in 1987. It's a way of working with
16 the revitalization of the community and bringing forward a
17 really active waterfront that's going to make West
18 Sacramento a better place, not only for the community in
19 West Sacramento, but for the entire region.

20 We built the first section of our riverwalk park
21 in 1998. That is in front of the ziggurat. And I know
22 many of you have had a chance to look at that. We're very
23 proud of the work that we did out there.

24 We recently received a Prop 50 grant for the next
25 section. It's only a block long, but it will complete

1 that section of riverwalk between the Tower Bridge and the
2 I Street Bridge where the Southern Pacific -- or Union
3 Pacific Railroad tracks are going across.

4 We have a specific plan for the area we refer to
5 as the triangle where -- that is the subject of our
6 application. That specific plan was completed in 1992.

7 We started conceptual work on this section of the
8 riverwalk last year and came to the Rec Board staff in
9 February this year with a question that we thought would
10 be easily resolved. And, that is, how high should we
11 design the promenade of the riverwalk, you know, at what
12 elevation?

13 We know that there was some issues with regard
14 to, you know, which flood standard to use is a 100 years,
15 a 200 years at some other standard and, you know, what
16 flows, what assumptions we make. So we know that it's not
17 a simple question. But from our perspective it's an
18 important question because we're getting -- we're prepared
19 to spend literally hundreds of thousands of dollars in
20 taxpayer funds and public monies to design the promenade
21 to standard that we think should be in place. And we just
22 need to know that elevation.

23 This is the fourth time we've come before the
24 Board on this issue. And we're pleased that we seem to be
25 making progress. We're pleased that Mr. Bradley has been

1 able to get it on his schedule.

2 But our design process is on hold right now.

3 We've got consultants who are, you know, ready to proceed,
4 we are anxious to proceed. It appears now that we've lost
5 next year's construction season, and it's now going to be
6 '08 before we can get started on these improvements.

7 We're not asking for an encroachment permit at
8 this time. We understand that you need a complete
9 application. But, again, we're reluctant to spend the
10 literally hundreds of thousands dollars in design and
11 have -- and guess about what the standard is that we
12 should use for the elevation of the promenade. And we
13 think it's not a complex question, but it's something that
14 we absolutely need.

15 The second part of that question is: What is the
16 setback from the top of the bank that we should use for
17 our development in this place -- in this area? It's a
18 different kind of elevation. There is no levee there.
19 It's high ground. And so we -- that is the second part of
20 our question.

21 We're hoping that you can ask your staff to
22 return with a recommendation as to the elevation of the
23 riverwalk. And we're looking forward to continuing to
24 work with you as the Board and with your staff to achieve
25 this question.

1 I'd be happy to answer any questions about our
2 project and our program. And thank you very much for
3 allowing us to be here today.

4 PRESIDENT CARTER: Any questions for Mr.
5 Toppenberg?

6 SECRETARY DOHERTY: No. But it sounds exciting.
7 I hope it is.

8 MR. TOPPENBERG: We're very pleased with it.
9 We're very proud of the section that we've completed and
10 we're looking forward to building the next great section
11 of riverwalk.

12 BOARD MEMBER RIE: I have a question. I know we
13 had something scheduled for September 8th, I believe it
14 was, and it got canceled. Is that rescheduled or --

15 MR. TOPPENBERG: It was canceled by Rec Board
16 staff. We understand that there was some concerns about
17 the appropriateness of a board committee meeting on this
18 subject. We're fully prepared to meet with your committee
19 if that's the desire of the Board.

20 BOARD MEMBER RIE: Because I know at the meeting
21 before last didn't we set up a committee to --

22 PRESIDENT CARTER: Yes.

23 SECRETARY DOHERTY: That was work.

24 BOARD MEMBER RIE: -- work with them, meet with
25 them?

1 PRESIDENT CARTER: Yes, we did.

2 SECRETARY DOHERTY: Yeah. But I've never been
3 notified.

4 PRESIDENT CARTER: Well, at one point I knew the
5 reason for this because I was informed by staff why the
6 September 8th meeting was postponed. But I can't remember
7 what it was. Maybe -- can you --

8 SUPERVISING ENGINEER FUA: Yeah. The reason that
9 it was canceled is that because the questions that City of
10 West Sacramento wanted answered from the committee is a
11 technical issue. And that's basically what Mr. Toppenberg
12 is talking about, the design elevation and the setback.
13 So that was the reason for canceling it. It's a tech --
14 they're technical issues.

15 PRESIDENT CARTER: So the committee could have
16 met. But without staff research and input there wouldn't
17 have been any real guidance being given. And
18 subcommittee -- just keep in mind that it's good to have
19 subcommittees and they are kind of fact finding -- the
20 intention of these task groups are fact finding. They
21 cannot speak for the Board. The decisions have to be made
22 by the Board in public session. So just -- I'm sure
23 you're aware of that, but I just want to reiterate that.
24 So that, Dan, did refresh my memory. It didn't make sense
25 to meet given that we knew what your requests were but we

1 didn't have any technical data to respond and give any
2 guidance. So I think that was the reason.

3 So the ball's in our court, and specifically in
4 Mr. Bradley's court. And I'm sure that staff will move on
5 this on a timely basis.

6 MR. TOPPENBERG: Thank you.

7 BOARD MEMBER RIE: I just have one more question
8 of staff.

9 I know the questions that they want answered
10 because they brought them up before, such as the setback
11 and the freeboard. Are those questions that you feel
12 comfortable answering for those so they can move forward
13 in their design? Or is that something you need time to
14 research and then bring back to the Board for a
15 recommendation at a later date?

16 CHIEF ENGINEER BRADLEY: Both. It depends. Some
17 of questions -- certain things will have to be researched,
18 like which floods and what the elevations are. Make sure
19 that the data we're looking at are all correct, all the
20 same, those kind of things.

21 The setbacks and stuff, that will probably come
22 to the Board. That's certainly a Board decision. But
23 I'll have to explain that and I'll have to have a
24 recommendation. And it's not easy, at least with River
25 Islands. We had a levee there, they were going to bury it

1 here. I guess you'd have to say there's a levee there
2 somewhere because it's part of the Sacramento River Flood
3 Control Project. But whatever was there had been buried a
4 long time. So the question is: Where does the backside
5 of that levee end, how far out from the promenade will we
6 pull buildings back. So I'll have recommendations when it
7 comes to the Board regarding that issue.

8 As I proceed I will not -- I mean I will
9 be -- you know, this is not going to come out of a vacuum.
10 They won't all of a sudden be told what the answers are.
11 I will look up my stuff. I will arrange a meeting with
12 West Sac to discuss what I found and discuss it with them
13 prior to everything, bringing it to the Board and filling
14 it out in public. I'm not just going to make a
15 proclamation. I would work through this with the
16 applicant. This is a very large project. The issues are
17 not going to be very simple. So it takes a lot of
18 coordination.

19 BOARD MEMBER BURROUGHS: Mr. Bradley, would this
20 be a time that we would -- that possibly you could use an
21 interagency meeting to try to curtail some of the long
22 process and maybe you'd be able to give an answer --
23 direct answer?

24 CHIEF ENGINEER BRADLEY: What do you mean,
25 interagency? I'm not quite sure --

1 BOARD MEMBER BURROUGHS: Well --

2 CHIEF ENGINEER BRADLEY: Are you talking about
3 subcommittee or --

4 BOARD MEMBER BURROUGHS: No.

5 CHIEF ENGINEER BRADLEY: No, I don't think this
6 is -- I don't think we have an interagency problem. I
7 will be coordinating myself, Jay, Dan, and probably we'll
8 be meeting with the applicant and discussing this.

9 BOARD MEMBER BURROUGHS: But I think --

10 CHIEF ENGINEER BRADLEY: And then we're going to
11 come to agreement. We may not. If we don't, then, you
12 know, if there's --

13 PRESIDENT CARTER: There's really not multiple
14 agencies that are involved in this particular issue at
15 this time.

16 CHIEF ENGINEER BRADLEY: There's not. No,
17 there's not.

18 PRESIDENT CARTER: So it's probably not an
19 interagency issue.

20 When you -- I would encourage you to get the task
21 group involved when you're ready for those discussions. I
22 don't believe we identified a task leader on this. Is
23 there -- the three members that volunteered to be on the
24 task group were Lady Bug, Teri and Butch.

25 Do one of the three of you want to step up and be

1 task leader just so that there can be somebody
2 coordinating with staff in helping them decide when it's
3 appropriate to bring the Board or a task group involved?

4 CHIEF ENGINEER BRADLEY: You might want to ask
5 counsel whether it's appropriate that the subcommittee
6 tells us what to bring to the Board. I believe that
7 that's our job, to decide what to bring to the Board.

8 My opinion --

9 PRESIDENT CARTER: No, what I was asking, Steve,
10 was when it's appropriate to have the task group members
11 involved.

12 CHIEF ENGINEER BRADLEY: My feeling that when you
13 need a subcommittee is when you cannot work out some
14 critical issue. We have not reached that point at the
15 moment. You know, most of it -- right now they're just
16 technical issues. And so when I bring this to the Board,
17 if you find there's something that we haven't worked out
18 at that level and the Board doesn't understand, then they
19 might want to have a subcommittee work with the applicant
20 and work with staff to try to work something out to bring
21 to the Board. But we haven't reached that, so we don't
22 know whether we have any problems yet.

23 Does that make sense?

24 BOARD MEMBER BURROUGHS: Yes.

25 Mr. President, but I didn't really hear a

1 response of a direct answer that you could answer these
2 questions directly for them.

3 CHIEF ENGINEER BRADLEY: I will have
4 recommendations. There are going to be some that I
5 probably have direct answers for and some that I probably
6 will have to bring to the Board, such as: How far back
7 from the river are the buildings going to be? I'm going
8 to have a recommendation that that's going to be a Board
9 decision.

10 If we ask for a 200-year level of protection, and
11 it requires a slight raise in a section of a levee, and
12 that raises higher than on the Sacramento side, that's a
13 Board policy to make. That's not mine.

14 What I'm going to provide you with is the correct
15 information and a recommendation or a statement of what
16 the policy is that you're going to be considering.

17 BOARD MEMBER BURROUGHS: Thank you.

18 PRESIDENT CARTER: Any other questions, comments?

19 BOARD MEMBER BURROUGHS: Well, just one other
20 comment would be, Mr. Bradley: Is there any information
21 that they could present to you that would help you?

22 CHIEF ENGINEER BRADLEY: If there is, I will be
23 contacting them.

24 I mean I've been working with West Sac on and off
25 through some of these issues for the last, I don't know,

1 year and half or two years maybe at various times. We
2 worked -- prior to this we worked on other projects. So
3 it's not like we don't have a working relationship there.
4 They've been to the Board before. I've met with them, I
5 don't know, half a dozen times probably. We've had
6 meetings over in west Sacramento.

7 BOARD MEMBER BURROUGHS: Thank you.

8 PRESIDENT CARTER: Thanks very much, Mr. Bradley.

9 Okay. Moving on. Item 18, Reclamation Board
10 Strategic Plan.

11 Mr. Hodgkins.

12 VICE-PRESIDENT HODGKINS: I think I need to turn
13 my microphone on first.

14 I need to begin this by saying --

15 PRESIDENT CARTER: You need to get closer.

16 (Laughter.)

17 VICE-PRESIDENT HODGKINS: You know, the summer
18 has offered lots of opportunities: Water skiing, hiking,
19 fishing. And I haven't done as much on the strategic plan
20 as I should have, at least as I think I should have. But
21 I did sort of get crash going when there were some Board
22 meeting scheduled. And I have a suggestion that I've
23 discussed briefly with Ben, and I want to lay that out for
24 you.

25 We have talked about in front of the Board the

1 idea of having a strategic plan that was driven by values
2 and hiring a facilitator. I spoke to Scott about the
3 facilitator. And I think facilitating the Reclamation
4 Board would be a bit of a challenge because of
5 Bagley-Keene and all the facilitation having to be done in
6 effect in an open Board meeting.

7 So I also talked to facilitators. And, you know,
8 facilitators want to know what the disagreement is that
9 they're going to be trying to reach resolution on. But we
10 really don't have one yet.

11 Okay. So this is what I am going to suggest we
12 do. We have a committee, and I think it's Ben and I -- or
13 a task force on the strategic plan. I think we need to
14 work with staff and get out what is called the request for
15 a statement of qualifications from facilitators who
16 specialize in strategic plans. And so they will give us
17 some information about their experience in doing
18 value-driven plan. From that, we will pick two or perhaps
19 three and spend some time with the staff and with two or
20 three in trying to just talk through how we're going to
21 facilitate a plan and deal with Bagley-Keene. And I
22 think, you know, there are some very practical issues
23 like, you know, open meeting. Then in addition to that
24 staff availability and those kinds of things. And out of
25 that come up with a recommendation for the Board of both a

1 facilitator and an approach for moving forward with this
2 strategic plan.

3 Now, that's letting staff and the two Board
4 members do quite a bit of work without checking in with
5 the Board. But if you're going to put out a request for
6 statement of qualifications, you've got to give people two
7 or three weeks to respond, and it's hard to make it all
8 fit with Board meetings.

9 And so I'm hopeful that if we took this approach,
10 we might be able to come back to you in December with a
11 specific proposal. And I don't know how far we would get
12 in terms of actually putting some values on the table.
13 But we need to basically lay out the process we're going
14 to follow in a, you know, public forum so the public has
15 every opportunity they want to be able to have input to
16 that process. And I think having staff and Ben and I work
17 with a couple of promising facilitators and picking one
18 who seems to have an approach that we think would work,
19 bring that back as a recommendation to you is probably the
20 best way to go.

21 And so I'm open to any comments or suggestions.
22 But it is a bit of a challenge and the open meeting law
23 has been a challenge.

24 Facilitators like always to have one-on-one
25 meetings to get a sense of where people are really coming

1 from. And that just isn't going to work here.

2 PRESIDENT CARTER: The reason is the serial -- it
3 would constitute a strict serial meeting. But we can't do
4 that.

5 But I feel fairly confident that Butch and myself
6 and staff can talk with facilitators. We can at least
7 tell them where we are at this point, what we have at this
8 point. And really what we're asking them to do is just
9 facilitate a discussion and to push that forward. And it
10 helps to have somebody who knows the architecture and
11 structure of a strategic plan so that they have some
12 perspective of where we want to end up. And then they can
13 guide the discussion towards that endpoint. And that's
14 kind of what we'd be looking for in a facilitator,
15 somebody who can facilitate a discussion, but also has
16 knowledge about what a strategic plan looks like.

17 BOARD MEMBER BURROUGHS: Mr. President, three
18 questions. One would be for Mr. Morgan.

19 Would it be a serial meeting if you're not
20 discussing any items on our agenda and it's working more
21 on just the strategic plan values of the Board?

22 STAFF COUNSEL MORGAN: The only reason it's not
23 on the agenda is you haven't declared open meeting to put
24 it on the agenda. The idea of having the strategic plan
25 where the Board develops its policy and direction is

1 something that would be of interest to the public, the
2 public would want to know the process. So you can't cut
3 out that in secret. That has to be done in open, so it
4 would be a serial meeting. If this is something that
5 needs to be agendized, and I believe it does, then all
6 parts would have to be agendized.

7 BOARD MEMBER BURROUGHS: But what if it's not
8 about policy?

9 STAFF COUNSEL MORGAN: What would it be about?

10 I guess if you wanted -- you could have -- I mean
11 you could have meetings not subject to Bagley-Keene to
12 talk about anything not subject to -- not related to the
13 Rec Board interests. But that wouldn't -- I don't think
14 would be the strategic plan of the Rec Board, related to
15 the Rec Board's policies.

16 BOARD MEMBER BURROUGHS: Okay. Thank you.

17 And then I will forward on to facilitators to
18 you.

19 PRESIDENT CARTER: To Butch.

20 VICE-PRESIDENT HODGKINS: You'll send them to me.

21 BOARD MEMBER BURROUGHS: Okay. And then the
22 third question is: How do we proceed with getting
23 approval for the funding of hiring a facilitator?

24 VICE-PRESIDENT HODGKINS: We had an executive
25 committee meeting where we met with Jay and the Director.

1 And I think the statement was: "DWR hires facilitators
2 all the time. Tell us who you want. It won't be a
3 problem." Okay.

4 GENERAL MANAGER PUNIA: We have met with the
5 Department of Water Resources to fund this effort.

6 BOARD MEMBER BURROUGHS: Thank you.

7 PRESIDENT CARTER: Okay. Any other questions
8 about the strategic plan and the process?

9 BOARD MEMBER RIE: Okay. So once you hire a
10 facilitator, what is the timeline? You know, are you
11 talking about workshops and two or three? I mean have you
12 guys thought about that?

13 VICE-PRESIDENT HODGKINS: I've thought about
14 that. But I think I want the facilitator's input in
15 developing that, along with staff's input. That's part of
16 the reason of trying to get some idea of what's on our
17 agendas in the future, is to -- I don't know how much time
18 this is going to take. But I think we need the input of a
19 facilitator. I think we need a facilitator more than
20 anything else to help us be sure we put this into what is
21 a strategic plan form and, you know, follow that kind of a
22 process.

23 And so it's a facilitator, but it's a strategic
24 plan consultant.

25 BOARD MEMBER RIE: Okay. So once you pick one

1 out to get one on the Board, then you'll have a better
2 idea of timeline?

3 VICE-PRESIDENT HODGKINS: Yeah. We will come in
4 December I think with a workplan, a schedule, and asking
5 the Board to approve retaining the consultant. That would
6 be my goal.

7 PRESIDENT CARTER: Any other questions, comments?

8 Very good. All right.

9 Let's take a five-minute stretch here. And we
10 will reconvene at 4:40.

11 (Thereupon a recess was taken.)

12 PRESIDENT CARTER: Okay. Ladies and gentlemen,
13 it's late in the day. We've rounded turn 4, we're on the
14 home stretch. So let's have a strong finish here.

15 We are on Item No. 19, Board Comments and Task
16 Leader Reports.

17 Just as a reminder, earlier in the meeting there
18 was a request about finding out whether the Board had any
19 comments on SB 1796, and also a request under this item to
20 talk about Board policy on press contacts.

21 So, first of all, I'll ask if there are any task
22 reports from task leaders?

23 RoseMarie.

24 We'll just go around the table.

25 BOARD MEMBER BURROUGHS: Okay. On the task

1 report for the San Joaquin, I would like Jay to report on
2 that for me.

3 GENERAL MANAGER PUNIA: Board Member RoseMarie
4 was not able to join us for the meeting. But we met with
5 Reggie Hill.

6 Reggie brought two issues to our attention. One
7 issue was that the priority list developed by the DWR and
8 the U.S. Army Corps of Engineers for PL 84-99, some of the
9 critical sites, Reggie thinks, was not prioritized
10 properly in the list. So we -- I facilitated a meeting
11 with the DWR staff, and they made a commitment that they
12 will go back to the Corps and reevaluate those priorities
13 based upon Reggie's input.

14 So subsequently I have seen the e-mail traffic
15 that they're readjusting that priority in the low San
16 Joaquin Levee District based upon the input from Reggie
17 Hill.

18 The second item with Reggie Hill wanted to bring
19 to our attention -- to the Board's attention that he has
20 heard that the settlement of the San Joaquin River
21 restoration settlement may reintroduce -- or may introduce
22 Salmon habitat in the bypass. So he was expressing
23 concerns and wanted to express his concern to the Board.

24 On that item my recommendation to the Board is
25 that we will ask DWR or U.S. Bureau of Reclamation to give

1 us representation, maybe the next meeting or the November
2 meeting, that what this restoration settlement is all
3 about. And then once we -- the Board has a chance to hear
4 about this, then they can give the direction to the staff
5 if you want to get engaged in this and what fashion we can
6 take any role into this implementation of this MOU, which
7 there have been various parties involved in the
8 settlement.

9 That's it what I have to share on this
10 coordination with Reggie Hill.

11 PRESIDENT CARTER: Did you have anything else,
12 RoseMarie?

13 BOARD MEMBER BURROUGHS: No, just look forward to
14 the report.

15 Thank you.

16 VICE-PRESIDENT HODGKINS: I would like to add a
17 little bit.

18 As a result of the meeting with Alex Hildebrand
19 and his crew some time ago about their sub-Delta
20 conveyance plan, those discussions kind of morphed into a
21 discussion of should we be working on trying to get the
22 San Joaquin folks to some kind of a vision of what needs
23 to be done with the San Joaquin from a flood control
24 standpoint. And then this occurred. You know, because if
25 you listen to Alex, and I think Alex is a pretty

1 knowledgeable guy, there have been a lot of measures
2 identified in various studies that have never all been put
3 together to see if they would really make any difference
4 in peak flood flow in the San Joaquin system. And it
5 seems like somebody needs to sit down and put those all
6 together and see if they make any sense.

7 And so we -- in light of this we then had a
8 meeting with Jay and Ricardo. I attended a San Joaquin
9 River Flood Control Association meeting down in Modesto
10 to, you know, discuss with them sort of our concept here.
11 And we had talked also to Rod about whether there was
12 going to be any funding available for a match to sort of
13 perhaps get into a situation where the San Joaquin
14 interests could work with a consultant partly funded by
15 DWR, partly funded by funds from another source, and start
16 to look at these in a little more of a technical way. And
17 those discussions have been generally so far very
18 fruitful. And we're pursuing, you know, trying to spread
19 that and see if we can get more support.

20 Because DWR has in mind to get a study focused on
21 urban level flood protection for the San Joaquin system in
22 the Stockton, Madera -- and excuse me if I got the wrong M
23 in here -- and Lathrop area where there's a lot of
24 urbanization going on. And I think if you think about
25 what we know about the San Joaquin from River Islands,

1 it's generally designed to carry about a 50-year event.

2 And if you're going to do an urban plan at the
3 downstream end of the system and if you're going to come
4 up with some kind of vision for the Delta, you need to
5 spend a little time thinking about ultimately whether
6 you're going to leave the San Joaquin as a river that only
7 conveys a 50-year event, or is it going to have to convey
8 more water than that? And that would have to be a
9 accounted for in the downstream planning both in the San
10 Joaquin/Lathrop area as well as any vision of the Delta in
11 the future. So we're kind of working on that, kicking it
12 around and talking to people about it.

13 And I will would love to get you involved in that
14 to help us out here, if we could do that. It just sort of
15 evolved out of those initial discussions on that plan. So
16 I wanted to make you aware of that.

17 PRESIDENT CARTER: Okay. Lady Bug.

18 SECRETARY DOHERTY: Yes. I went to a public
19 meeting for recreation at the Colusa River Park. They
20 didn't have money to clean out the boat slip, but they had
21 money to do an extensive study. And I thought that was
22 interesting. And they told us everything that was -- and
23 it was nice, they told us we were there as observers.
24 Everything that's going on along the river where they're
25 doing all of these plantings. And then they got down to

1 Colusa where they're going to put the boat ramp in. And
2 they're going to have a 200-acre park, because the nature
3 conservancy bought this land and they're going to of
4 course turn it over eventually.

5 But it was a very contentious meeting. And
6 finally the Recreation Director for Colusa County stood up
7 and suggested that they break it into two parts. One
8 would be the park and the boat ramp, which would be
9 altered. And the other was all the things that were going
10 on along the river. Which was a good idea and probably
11 should have been done in the first place.

12 They've got a wonderful, wonderful brochure out
13 of here. And I have a telephone number. And you can
14 visit their website. It's Sacramento River dot CA dot
15 GOV. And they're going to have all kinds of festivities
16 Monday. If you'd like to go up, you can go for boat
17 rides, you can go for hikes. You can do all kinds of
18 things with them. And then Thursday at the Sierra Brewery
19 in Chico, they're going to have a big dinner, silent
20 auction, the whole bit.

21 So if you want to join in, I'll pass this around
22 in case anybody wants to look at it. And their mission
23 statement.

24 And they include some of the counties that are
25 not in step with them. They're still having a serious

1 problem with landowner assurances. It's still a bone of
2 contention. And it's supposed to have some workshops.
3 They haven't had those yet.

4 And then I went to a Westside Levee District
5 where I heard that, by golly, if that Tisdale Weir isn't
6 cleaned out and a levee breaks at District 108 and it's
7 going to go down and flood Knights Landing Ridge Cut, and
8 dah dah dah dah dah.

9 And then I heard about the elderberries being
10 planted at the Del Rio wildlife area. And I wanted to see
11 what was going to happen, because it specifically had a
12 permission to have this area, but no elderberries. So in
13 order to facilitate and do mitigation and where
14 improvement is being, which I thought is great, rivers are
15 being repaired and the levees are being repaired, so they
16 were able to take the elderberry beetles up there and the
17 bushes.

18 So that's what I've been doing.

19 PRESIDENT CARTER: Okay. Teri, did you have any
20 task leader reports?

21 BOARD MEMBER RIE: No report this month.

22 PRESIDENT CARTER: Okay. Butch.

23 VICE-PRESIDENT HODGKINS: There's one other -- I
24 don't know if we still have a task leader or not. But if
25 you recall, we were very active when we initially formed

1 on this 408, 208 issue. And I think the issue in many
2 ways has -- part of it's been resolved and that the Corps
3 basically is going to use 408. And so in some ways that's
4 the end of it.

5 But I understand from Scott that there is an
6 opportunity for the state to have some input into
7 developing some federal guidelines, there's some Corps
8 guidelines or policies, as to when, where -- how you draw
9 the line between 208, which means it's a maintenance
10 activity, and 408, which means it's a modification of the
11 project, which gets into the area of an originally
12 authorized project by Congress and by the state.

13 I would like to ask Scott if it would be possible
14 for him -- but I guess I should ask Jay. Although, Jay,
15 I'm not sure you were around for the 408, 208. But it ran
16 hot and cold for a while. To come at the next Board
17 meeting, kind of go over the issue again for the Board and
18 offer with the Corps, if you can, some recommendations as
19 to the kinds of guidelines we might consider and explain
20 why. I mean I think that needs to be done with DWR
21 because these guidelines are potentially troublesome if
22 the state wants to go forward and modify some of the
23 system using a hundred percent state funds and do
24 something that falls under 408. Because then you may have
25 to wait till the process -- till that is approved by

1 headquarters. So it's not a small issue. And rather than
2 have a task force trying to make a presentation, I think
3 it would be much better if we had staff do it.

4 Is that doable, Scott?

5 STAFF COUNSEL MORGAN: Sure, we can add that to
6 the calendar for what, October?

7 VICE-PRESIDENT HODGKINS: For October.

8 BOARD MEMBER RIE: If I could add to that.

9 I actually have a draft letter for comments to
10 the Corps, because we did discuss this several months
11 back. The Corps did ask us to comment on their process
12 and how we want to see that implemented. And I have
13 comments from Corps headquarters and some of the ideas
14 that they had given to us. And I've been reluctant to
15 bring that before the Board because I know everybody's
16 been busy with the critical erosion sites and other issues
17 that are more pressing.

18 And another thing is, we were going to meet with
19 DWR and see if they can help us draft some comments,
20 because this was going to affect DWR and not just Rec
21 Board permits. So I'm just wondering if we ever got any
22 feedback from Lester Snow or Les Harder. I personally
23 haven't spoken to them.

24 VICE-PRESIDENT HODGKINS: And I know, you know,
25 there were a lot of changes in DWR. I had spoken to one

1 of the deputy directors who has since departed, and he was
2 very concerned about the process for exactly the reason
3 that I outlined, is it potentially puts headquarters of
4 the Corps in a position of delaying perhaps for a decision
5 important state projects that might come out of the Board
6 issue, bond issue.

7 But I think Scott understands that it's more than
8 just a Rec Board issue. And I know that Mr. Punia does.
9 And so you need to work with DWR in coming to the Board.
10 But the Board it seems to me is the appropriate place to
11 adopt some kind of comments in a manner where the public
12 has an opportunity for input and comments.

13 PRESIDENT CARTER: My recollection -- and correct
14 me if I'm wrong -- is, Teri, you were leading that task
15 group. Are you still willing to do that?

16 BOARD MEMBER RIE: Yeah.

17 PRESIDENT CARTER: Okay. So will you and Butch
18 then work with Jay and Scott No. 1 over there to decide
19 exactly what we want to do and set up the necessary means
20 with DWR to solicit their comments --

21 BOARD MEMBER RIE: Yes.

22 PRESIDENT CARTER: -- and come back to the Board
23 when you're ready?

24 BOARD MEMBER RIE: Yeah.

25 PRESIDENT CARTER: Okay. Great.

1 BOARD MEMBER RIE: So perhaps Jay could -- I know
2 there are so many things that we have on our plate right
3 now -- set up a time in the next month, month and a half
4 that will work for you and Scott, and then we can get
5 together and strategize.

6 But I do have Corps comments -- unofficial
7 comments that were recommendations from Corps staff to us
8 to officially respond back to the Corps. So it would be
9 appropriate to discuss those at a task force level.

10 PRESIDENT CARTER: Okay. Butch, did you have
11 anything else?

12 VICE-PRESIDENT HODGKINS: The one thing I might
13 add on that is -- Scott, you're closer to this than I am.
14 But you want to be careful. If the Corps's thinking about
15 going ahead with something, we want to make sure they know
16 we're interested in having some input here before they get
17 it done. So can you convey those on? And then we'll try
18 and get a meeting scheduled at least -- and perhaps even
19 with Carl and the four of us.

20 STAFF COUNSEL MORGAN: Okay.

21 PRESIDENT CARTER: Okay. Very good.

22 The only other thing is that Butch mentioned
23 earlier in the meeting that we did have a meeting with DWR
24 exec. It was a meeting between Butch, Jay and Lester
25 Snow. I was unable to attend. And I couldn't get those

1 guys to come up and help me with the prune harvest, so we
2 didn't have the meeting -- or I missed the meeting.

3 But there were some good things that came out of
4 the meeting. Specifically we went into the -- actually I
5 should let you guys talk because I was -- it's not we,
6 it's you.

7 GENERAL MANAGER PUNIA: Yeah, maybe I can quickly
8 synopsise.

9 PRESIDENT CARTER: Sure.

10 GENERAL MANAGER PUNIA: Butch raised this issue
11 that due to some reason the Rec Board was not able to
12 participate in the future legislations. And Lester Snow
13 was very receptive to that idea. And I think in the
14 future he indicated that the Board -- he will work with
15 the Board for the next year legislations.

16 And one item on the agenda was that we were not
17 party to how we are going to spend the AB 142 half a
18 billion dollars given to the Department of Water
19 Resources. So the plan is that we will invite DWR staff
20 to give the briefing to the Rec Board so that we can hear
21 and the general public can also hear how DWR is going to
22 spend the money. So Lester Snow was receptive to that
23 idea. And I'm going to work with Rod so that he can make
24 a presentation to the Board, we can hear, and the general
25 public will have a chance to hear it too.

1 Then based upon Ben's recommendation, we raised
2 this issue that we needed more staff for the Rec Board so
3 that we can expedite these permitting process and future
4 project coordination also. DWR Director Lester Snow was
5 receptive to that idea. He forwarded that comment to Rod.
6 And subsequent to this meeting, we are working -- we
7 submitted a budget change proposal so that we can have in
8 the next -- starting next fiscal year another engineer and
9 associate government program analyst.

10 So that budget change proposal is tied to the
11 budget bond with budget change proposal which DWR is
12 pulling. So if the bond passes, then it's a pretty good
13 likelihood that we will get additional staff. But if for
14 some reason the bond doesn't pass, then that budget change
15 proposal may die.

16 So I think my recommendation to President Carter
17 will be that when we have the next meeting with the DWR
18 Executive Committee, that we may push again that it's good
19 to put the budget change proposal, but that DWR can assign
20 additional staff so that then we can keep these permits
21 moving, that there are already permits coming in the
22 pipeline. And we know Steve alone cannot handle these
23 all. So that we can bring additional staff to help Steve
24 to keep these permits going. So that's what I
25 recollect -- my recollection is on our meeting.

1 VICE-PRESIDENT HODGKINS: I do think that we also
2 talked about our -- as Board members, our frustration with
3 some of what's happened in the media. And there was
4 discussion about perhaps getting some input help from
5 Susan Sims and coming up with some sort of a strategy to
6 try and at least balance some of what's happened. I mean
7 I saw an article in a San Francisco paper that just turned
8 my stomach.

9 SECRETARY DOHERTY: Well, it just really turned
10 into sour grapes. That's all.

11 PRESIDENT CARTER: Well, okay. And then that
12 kind of -- thank you for the segue into our -- what we
13 talked about earlier, was kind of Board policy on press
14 contacts. This is subject to, you know, what the Board
15 wants to do. And it really is subject to the individual
16 judgment of the Board, in particular, and to a certain
17 extent, staff. But we all get calls from the press asking
18 a variety of questions and whatnot. I think that -- when
19 it comes to litigation, the answer is "no comment" in
20 general. And if they persist, you can refer them to our
21 attorney, Scott, and he can tell them "no comment" as
22 well.

23 (Laughter.)

24 PRESIDENT CARTER: But I think we need to be
25 consistent on that. It's just not in the state's

1 interest, it's not in the Board's interest to comment on
2 potential or pending or existing litigation.

3 With regard to actions that the Board has taken.
4 I do not want to presume to stifle any Board member in
5 terms of talking, you know, about their opinion about
6 something. I would suggest that they -- if there are
7 particularly contentious issues, that they are guarded and
8 reserved, because my experience has been that what you say
9 is not always what gets printed. And if there are
10 significant political issues, then what we ought to have
11 is kind of a central point of contact. To a certain
12 extent I've been acting in that regard. And that's kind
13 of good because I'm kind of hard to get ahold of.

14 (Laughter.)

15 PRESIDENT CARTER: So sometimes I'm not able to
16 get back to them with their press deadlines.

17 We do want to try and cooperate with the press.
18 DWR's policy in general with regard to those kinds of
19 questions is we want to be responsive but be careful. And
20 so it's up to your discretion in reality on what you do.

21 With staff, there's less discretion. I think
22 that staff in general -- on particularly of contentious
23 issues in staff in general, you should be saying "no
24 comment" more often. And let the Board set the policy.
25 There have been cases in the past where staff has made

1 comments that have undermined some of the things that the
2 Board has tried to do. We don't want that to happen.

3 So that's my general take on that. And if you
4 all have things that you want to add to that or if you
5 have different perspectives, please voice them.

6 Nobody wants to?

7 SECRETARY DOHERTY: Well, if you get caught
8 unawares, what you do is you say, "What is it you need to
9 know? Oh, I've got a pot on the stove and I've got
10 cookies in the oven and I've got to get them out."

11 (Laughter.)

12 SECRETARY DOHERTY: And then you sit down and you
13 get your head in order and then you call them back.

14 (Laughter.)

15 PRESIDENT CARTER: Yes.

16 VICE-PRESIDENT HODGKINS: You know, I also think
17 it's perfectly legitimate to say, "Tell me what your
18 questions are. I want to think about it before I call you
19 back." That's perfectly legitimate.

20 BOARD MEMBER BURROUGHS: I agree.

21 PRESIDENT CARTER: So I don't really want to -- I
22 don't want to discourage people from talking to the press.
23 But you definitely need to be guarded. They are -- in a
24 particular case with a San Francisco Chronicle article
25 they were using copies of the transcripts from meetings

1 and taking comments out of context from Board members.

2 And so to the extent that everything we say becomes public
3 knowledge, verbatim, be careful what you say.

4 VICE-PRESIDENT HODGKINS: Which is why I tried to
5 back up on that flippant comment this morning.

6 PRESIDENT CARTER: Okay. So that covers that
7 one.

8 The other request earlier was comments on SB
9 1796. There were -- earlier in the meeting there were no
10 comments. I think that it's very difficult to ask the
11 Board in a public forum to make comments on potential
12 legislation, particularly when it's on the Governor's
13 desk. I think that -- we have to remember that we are
14 part of the administration. It could be embarrassing to
15 the administration and to the Board if the Board states a
16 position that's very contrary to a position that the
17 administration has taken or may take in the future. So we
18 want to be very careful about that.

19 And that goes with kind of all policy issues. So
20 we as a board need to collectively have a meeting of the
21 minds with those things rather than make individual
22 comments. And, again, we need to be guarded on those
23 because what we say becomes public pretty quickly,
24 particularly if it's sensational.

25 So anybody else have any comments with regard to

1 that?

2 SECRETARY DOHERTY: Yeah, I'm opposed to it.

3 (Laughter.)

4 SECRETARY DOHERTY: My constituents in my part of
5 the country are opposed to it, because then you have no
6 choice about what, who gets on, you know. And they feel
7 that they need to have a choice.

8 PRESIDENT CARTER: Okay.

9 SECRETARY DOHERTY: I don't see any newspapers
10 here.

11 PRESIDENT CARTER: Any other comments?

12 BOARD MEMBER BURROUGHS: Will there be
13 arrangements made following up with Sue to work with the
14 Board?

15 PRESIDENT CARTER: What would you -- I talk with
16 Sue and Ted Thomas on a fairly regular basis. And each
17 and every Board member is welcome to contact them. I
18 think everybody has -- they don't -- well, Jay will make
19 sure that every Board member has contact information for
20 Sue and for Ted. And you're welcome to contact them
21 individually.

22 Did you want her to come in and talk about
23 something in particular to the whole Board in a public
24 meeting, or would you like to talk to her individually?
25 What's your pleasure?

1 BOARD MEMBER BURROUGHS: I don't think it -- I
2 don't know that I prefer one way or the other. But I
3 think it's important that we all have an opportunity to
4 get questions answered and especially when we're not
5 exactly sure in our comments that are being made and how
6 they're being taken.

7 So I guess individually is fine. Although, I
8 would think that maybe there would be some opportunity for
9 learning if we did something together as well. So I'd
10 leave it up to -- go ahead.

11 GENERAL MANAGER PUNIA: May I make a comment?

12 I'm going to have a meeting with Sue. So my
13 recommendation is that we may invite Ted Thomas or Sue to
14 these meetings. And once in a while they can -- just like
15 DWR news release, they can work on Rec Board news
16 releases. So I will be working closely with Sue, so that
17 we can project positive image of the Rec Board in the
18 media. So I will be meeting with Sue to go over that
19 strategy.

20 BOARD MEMBER BURROUGHS: Well, I'd like to thank
21 you. That's very special to be able to turn something
22 negative into a positive. And I like your comments about
23 making public prepared statements to work on the positive
24 image.

25 Thank you.

1 PRESIDENT CARTER: One piece of advice, and I
2 found it very helpful, is that if I get a contact from the
3 media -- and normally I have this opportunity -- I am able
4 to talk to Sue before I talk to that person and -- or Ted.
5 And the questions I ask them are essentially, "Who is this
6 person? Do you know them? Have you met them? What's
7 their agenda? What are they after? What's their
8 approach." And so you go into a discussion with the
9 member of the staff having some background, and at least
10 your antenna up. That helps a lot. Because both Sue and
11 Ted know most of these people personally, have met them
12 and talked to them.

13 And so they -- if you give them a name of
14 somebody who's contacted you from a newspaper or
15 otherwise, they know these people and they know where
16 they're coming from, they know what they typically write,
17 whether they're news writers or their editorials or
18 they're columnists, you know. And can help you think
19 through, you know, kind of what some of the questions they
20 might be interested in. And so that just helps you get
21 prepared upfront.

22 So I would encourage you if you do get a media
23 contact and you're inclined to contact them or to call
24 back, call Sue first and talk to her. And if you can't
25 get ahold of Sue, talk to Ted.

1 Okay. And even if you don't, it's a good idea to
2 contact them and tell that you did have contact with a
3 certain member of the press and what the content of the
4 discussion was, just so they know and they don't get
5 surprised by some article that comes up.

6 Okay. Any other Board comments, task leader
7 reports?

8 Okay. Did you have something, RoseMarie?

9 BOARD MEMBER BURROUGHS: I have a question going
10 back to the legislative information.

11 I would still like to be informed more
12 specifically from our legal advice as to how this bill's
13 currently on the desk of the Governor. I mean someone
14 from our department --

15 PRESIDENT CARTER: You're talking about 17 --
16 SB --

17 BOARD MEMBER BURROUGHS: SB 1796.

18 PRESIDENT CARTER: -- 1796.

19 And what is the question?

20 BOARD MEMBER BURROUGHS: I just would like more
21 detailed information about how this is going to impact us
22 and what are the negative and positives. Not necessarily
23 opinion, but just really looking at the details of this
24 and understanding it and the implications that it will
25 have for the Board for the future.

1 PRESIDENT CARTER: Okay. Scott.

2 STAFF COUNSEL MORGAN: Okay. The negatives or
3 positives are all opinions, so I can't give you anything
4 that's positives. But I can tell you what my familiarity
5 with a relatively recent version of the bill. They
6 amended it after I worked with Brian White and the folks
7 over in the Legislature who were meeting to discuss it.

8 This was not one of the bills that I was
9 curiously very involved with. I was involved with some of
10 the other flood bills, but not this one.

11 And as you read from the text of the proposed
12 statutes, it would increase the size of the Board, it
13 would, you know, establish -- as Brian indicated in his
14 outline, establish certain standards for the sort of, you
15 know, expertise requirements for certain members of the
16 Board. If they have not changed it, there was some
17 appointments from the Legislature, and that may still be
18 in there. And also there is part-time pay. So you'd be
19 getting a lot more than a hundred dollars a meeting. And
20 I don't know if that's still in there or not.

21 SECRETARY DOHERTY: Thirty-six thousand a year.

22 STAFF COUNSEL MORGAN: Yeah. Well, that's better
23 than a hundred bucks a meeting.

24 PRESIDENT CARTER: At the rate we're going, we
25 might burn through that very quick.

1 STAFF COUNSEL MORGAN: Other than that, I don't
2 think that, you know, frankly that the ex parte conditions
3 are going to be particularly onerous, because they're
4 cured by announcing at the meeting that you had contacts.

5 There was one very curious provision and rather
6 humorous at the time. But when the folks drafting this
7 put it together, they had changed one of the provisions of
8 Water Code which allowed anyone who is a member of the
9 Board who own property within the Sacramento an San
10 Joaquin Drainage District to vote on a project that would
11 provide flood protection within the district.

12 And they reversed it to say, you know, that you
13 couldn't. And it was fortunate that I was there at the
14 meeting, I suppose, because I told them that they
15 were -- they thought they talking about one reclamation
16 district. And I informed them that was the entire Central
17 Valley. So basically you would have a Board member -- I
18 imagine a number of you are within the Sacramento and San
19 Drainage District -- you would not have been able to vote
20 on anything that provided flood protection. No votes.

21 So they changed that provision, I noticed, in
22 what went to the Governor's desk.

23 But other than that it's just mechanically it
24 will work somewhat differently in terms of appointments
25 and in terms of a tenure. I think there's now terms of

1 office, the Board President's appointed by the Governor,
2 things like that. So it mechanically worked quite
3 differently.

4 But until the Legislature adopts any new
5 responsibilities for the Board, in terms of what you do,
6 it will still be the same things

7 BOARD MEMBER BURROUGHS: I appreciate your
8 comments. And I would like to request that there's some
9 way that we have communication with Brian White and you if
10 there's any more changes that could, you know, just be
11 changed again, and that we were notified about it.

12 STAFF COUNSEL MORGAN: Okay. Yeah, and --

13 BOARD MEMBER BURROUGHS: Because that was a huge
14 save in changing that little language there. That was one
15 of the --

16 STAFF COUNSEL MORGAN: Well, I was, frankly,
17 almost sorry I caught it. It would have been a lot of fun
18 to see the Rec --

19 (Laughter.)

20 STAFF COUNSEL MORGAN: -- And it would have been a
21 good grounds for vetoing the legislation too.

22 BOARD MEMBER BURROUGHS: Okay. And I'll take
23 this at home just to save time. But also I would like a
24 comment on AB 1039, if you've had a chance to work on --

25 PRESIDENT CARTER: Didn't that one die?

1 BOARD MEMBER BURROUGHS: No, it says -- according
2 to this one, it says it's still --

3 STAFF COUNSEL MORGAN: And which one is that?

4 BOARD MEMBER BURROUGHS: AB 1039.

5 STAFF COUNSEL MORGAN: 1039. I don't know
6 anything about that one.

7 PRESIDENT CARTER: I don't know which one that
8 is.

9 Which one is that?

10 BOARD MEMBER BURROUGHS: It exempts specific
11 levee and highway bridge seismic retrofit projects from
12 the CEQA.

13 PRESIDENT CARTER: Well, that's been signed.
14 That was -- I'm pretty sure that's been signed and is off
15 the Governor's desk. Right?

16 BOARD MEMBER RIE: That was a while ago.

17 BOARD MEMBER BURROUGHS: So it is signed?

18 PRESIDENT CARTER: I'm trying to find it here.
19 I'm pretty sure that that -- yeah, 1039. Yeah, that has
20 been signed by the Governor and --

21 BOARD MEMBER BURROUGHS: That was on page 6. But
22 it doesn't say it's signed. But maybe --

23 PRESIDENT CARTER: Well, the blue indicates that
24 it's been signed by the Governor.

25 BOARD MEMBER BURROUGHS: Okay. Good.

1 Okay. Thank you.

2 PRESIDENT CARTER: If you got a color copy.

3 BOARD MEMBER BURROUGHS: Thank you.

4 PRESIDENT CARTER: All right. Moving on.

5 The General Manager's Report.

6 GENERAL MANAGER PUNIA: Considering the time, I
7 will be brief. I think the Board has been briefed in the
8 closed session regarding the Natural Resources Defense
9 Council lawsuit.

10 Let's see. Moving along to the encroachment
11 permits. The Board issued 26 encroachment permits from
12 July 1st through August 31st. A total of 43 outstanding
13 applications are currently being processed. And, in
14 addition, a total of 16 letters of authorization and 3
15 variances were issued.

16 On the property side, the Rec Board issued a
17 right-of-way certification to U.S. Army Corps of Engineers
18 for the Pioneer Reservoir Seepage Relief Wells and Berm
19 Project in Sacramento County. In addition to this
20 certification, we also certified the PL 84-99 sites.

21 And we provided the comments letter regarding the
22 Draft Environmental Impact Report issued by the City of
23 Sacramento regarding the Greenbriar Development Project.

24 And I apologize that I was not able to coordinate
25 these comments due to time constraint. The deadline was

1 September 5th. So in the future I will be coordinating
2 these type of comments with the Board before sending these
3 letters to individual lead agencies, these type of
4 problems.

5 That's it.

6 PRESIDENT CARTER: Any questions for General
7 Manager Punia?

8 BOARD MEMBER RIE: Yeah, I have several items.

9 In general we haven't had the -- I don't know if
10 you're familiar with it. But Pete Rabbon used to do
11 weekly one-liners. And he would just go through real
12 quickly and just give a summary of what Board staff was
13 working on in the past couple of weeks or the past week or
14 the past month, whatever he had time to get out. And now
15 that you're on board, Jay, as soon as you're established
16 it would be nice to get e-mails with the weekly one-liners
17 at some point, because that was really helpful.

18 GENERAL MANAGER PUNIA: I will be glad to do it.

19 BOARD MEMBER RIE: Okay. And then the format of
20 the General Manager's report. If you look at the Rec
21 Board website, I think the last time there was a General
22 Manager's report posted to the website may have been 2004
23 or 2005. But if you go back and you take a look, they
24 have a really nice format, because they list all the
25 right-of-way actions, they list the permits. Rather than

1 26 permits were issued or 3 variances were issued, it
2 tells you what specific permits or what actions briefly,
3 just to give us a sense of the type of applications and
4 actions that Board staff is taking.

5 And so if we could set that up, you know,
6 implement that within maybe a few months, that would be
7 nice for the Board to have that kind of information and
8 detail.

9 And this is regarding the Del Rio permit. I
10 understand that the General Manager has to issue a permit
11 if it's related to the emergency action immediately. But
12 I think when we have a controversial permit, such as the
13 Del Rio permit, even though it's related to the emergency
14 action, I think the Board will need to approve the
15 emergency delegation of authority. You specifically
16 requested that if it was controversial or if there was any
17 public opposition, even though it was an emergency, that
18 that would be brought back to the Board, because this
19 Board is the public's real forum for input. And if we
20 just approve the permit when it's controversial, the
21 public doesn't really have an opportunity to comment.
22 So -- you know. And if that means that we have to
23 schedule a special meeting, I think we should at least
24 attempt to do that because I -- I think we're going to
25 have this emergency mode of operations probably throughout

1 this upcoming winter. And if we do have a controversy or
2 opposition, those should really come back before the
3 Board.

4 STAFF COUNSEL MORGAN: Let me make a comment
5 about the emergency declaration and then the resolution.

6 The Resolution 0608 that authorizes the General
7 Manager to issue permits has to follow three conditions:

8 First, it has to be work that's undertaken by the
9 state.

10 And the work has to be in response to a
11 declaration of a state of emergency by the Governor if
12 there is one -- a continuing one. But it applies to any
13 state of emergency.

14 And it has to be used as a condition imposed by
15 the Board because the delay necessitated by bringing the
16 matter before the Board would interfere with the timing
17 and completion of emergency work.

18 Now, this gives the General Manager discretion to
19 act. And when the Department of Water Resources provides
20 that information to the General Manager, what I've
21 asked -- when Dan was Acting General Manager and now
22 Jay -- that whenever he is reviewing or considering to
23 approve any action that the Department has requested, that
24 he gets a memorandum from Les Harder or Rod Mayer or
25 someone like that stating all those facts, stating that

1 this is work undertaken by the state, this is work in
2 response to a declaration of emergency, and that the delay
3 necessitated by bringing the matter to the Board
4 interfered with the completion of work.

5 As we indicated that when the Board approved this
6 resolution doing this gives the authority to the General
7 Manager, you cannot take it back. You can take it back by
8 rescinding the resolution. But you cannot take it back
9 buy saying, you know, "We're not happy with that. We
10 want" -- you know, "we want that action back." So the
11 Board has to make a decision, and that was the gist of the
12 decision back when the resolution was passed, is this is a
13 big deal, ceding the authority to the General Manager for
14 emergency actions. But that's -- you know, that's the
15 nature of the process. So, you know, you really can't
16 second guess the General Manager.

17 You can, however, and what I think I hear being
18 done, is indicating there is stuff that perhaps the
19 General Manager may not want to exercise discretion on.
20 But that's for him -- you know, him to decide based on his
21 consultation with the Department as to the nature of the
22 emergency request and also the understanding of what the
23 Board is, you know, concerned about and sensitive about.

24 PRESIDENT CARTER: Just to provide a little more
25 context on that particular instance. Acting General

1 Manager Fua did call me. We went through the resolution
2 and the conditions. We talked about were there any other
3 options, could it be delayed to -- could the decision be
4 delayed to bring it before the Board? And the consensus
5 and advice at that time was no. And I -- reluctantly I
6 acquiesced, said, "Okay, then if that's what you have to
7 do, that's what you have to do. Go ahead." And so he did
8 consult me. I don't know if he talked to anybody else on
9 the Board. But that's not to say that it was necessarily
10 the right thing to do. But in defense, he did check.

11 BOARD MEMBER RIE: I wasn't questioning how that
12 permit was issued. I was just making a general statement
13 that, you know, things are going to come up, and we just
14 have to be very conscientious about these emergency
15 delegations of authority and not just sign everything that
16 comes before us. And I'm sure a lot of thought went into
17 that. But, nevertheless, you know, there was some people
18 that were unhappy with it. And, you know, there has got
19 to be a process where the public can comment. And even if
20 the work can't be delayed and the permit has to be issued,
21 there should be an opportunity for the applicant or the
22 property owner to come back even in a subsequent Board
23 meeting and just provide their comments of how they -- I
24 don't know if this particular instance warranted that.
25 But, you know, I just want to make sure that people know

1 that they can comment whether the action is taken or not.
2 And it's not because we're having a state of emergency and
3 this is the way it is and that's the end of the story.

4 STAFF COUNSEL MORGAN: And I'm not trying
5 to -- I'm not trying to keep the Board from expressing
6 their preferences to staff about this, about the General
7 Manager. But I am trying to draw the line about, you
8 know, where the General manager's authority is based on
9 that resolution. And it is in fact an uncomfortable thing
10 to have basically carte blanche declaration of emergency
11 powers given to the General Manager, where all the Board's
12 decision making -- this is a Board that's supposed to be
13 making decisions in a public forum. And so as a rule the
14 exercise of emergency powers not done in public should be
15 the exception rather than the rule. So having this
16 continuing state of emergency presents a bit of a problem.

17 But the primary source of information about
18 whether something really is an emergency or not is going
19 to come from the Department. And I don't think what Dan
20 did was at all inappropriate, talking to Ben. I don't
21 think it would be inappropriate for Jay to talk to Ben or
22 other Board members to get some input, get some feedback,
23 is, you know, "What do you think?" But ultimately the
24 decision is his. The authority has been given to him. I
25 just want to make sure that the line is clearly drawn,

1 that the Board has as a board given all the Board's
2 authority to the General Manager when these conditions are
3 met.

4 And this does not prevent an applicant from
5 coming back or some -- a member of the public has a
6 concern about the decision coming back and addressing the
7 Board and asking that the decision be reconsidered or
8 revisited.

9 VICE-PRESIDENT HODGKINS: And I don't think Teri
10 is second guessing anybody. I think her point is, if
11 somebody calls you after you made a decision and they are
12 unhappy, the Board is open to letting them come and tell
13 us why they were unhappy with what happened. That's
14 really what it is, isn't it?

15 BOARD MEMBER RIE: Yeah.

16 VICE-PRESIDENT HODGKINS: Because I don't think
17 we can -- I don't want to put staff in the position of
18 worrying about being second guessed. They've got to --
19 when we delegate, they've got to be able to exercise their
20 best judgment, make a decision, and assume that they're
21 going to be supported by the Board. And I think that was
22 the spirit in which we approved that particular
23 delegation.

24 But I think you also have to be careful when you
25 express that to make sure the commenter understands it is

1 a done deal. "Okay. You can go tell the Board why you're
2 unhappy. They will listen. They will take it into
3 consideration next time. But it's a done deal." You
4 can't come and comment to the Board and change a condition
5 that's been incorporated into a permit that was used to go
6 forward with a construction contract. You just can't do
7 that. I mean I suppose you can, but you will create one
8 hell of a mess. And you will very quickly have people
9 unhappy, because they don't know if they're able to go
10 ahead when they have the approval or not. And so it is a
11 done deal. But it's an emergency.

12 Certainly we are interested in hearing what
13 people have to say by their comments. But those comments
14 are not comments that are likely to get us to change
15 something that's already been issued. And I think if you
16 mislead them, you'll just make it worse. And the
17 misleading isn't intentional. They just hear what they
18 want to hear, which is, "Oh, I can come in and complain to
19 the Board and they might change this." And I don't think
20 that's the case.

21 PRESIDENT CARTER: Okay. I think staff has got
22 the point. I think the rest of Board has got the point.
23 When you're exercising your authority, use some discretion
24 and set a high standard for particularly controversial
25 issues.

1 Okay. Moving on to Future Agenda?

2 Everybody has a copy of a draft agenda for
3 October 20th here in Sacramento. It appears that it's
4 Mayhew month, but it is October. We've got three items
5 addressing Mayhew, one permit action regarding a fill
6 against a levee, Yolo County for a residential unit.
7 Those are the main topics.

8 There was also the continued item under
9 "Applications" from this month for Castle Properties.
10 That probably ought to be added to the agenda.

11 Any suggestions on additions or deletions?

12 BOARD MEMBER RIE: I have a question.

13 PRESIDENT CARTER: Yes.

14 BOARD MEMBER RIE: 9A, it says that "The final
15 EIR was presented to the Board and the Board has reviewed
16 and considered information. And the final EIR reflects
17 the Board's independent judgment analysis."

18 And I just want to be certain that come October
19 20th that the staff -- and I'm not talking about Rec Board
20 staff -- the other staff, that they don't ask us to
21 approve this and make these findings and we haven't seen
22 the EIR.

23 BOARD MEMBER BURROUGHS: I would like to
24 reiterate that same request over and over about having
25 information presented to the Board and having time to

1 review it before a decision is made.

2 PRESIDENT CARTER: Okay. And in the past your
3 request has been one month prior.

4 Okay. Scott, did you want to say something?

5 STAFF COUNSEL MORGAN: No. I thought I was being
6 asked a question about the CEQA process. But I understand
7 this to be a request of staff to make sure you get
8 materials in a timely fashion. Because I presume we're
9 the lead agency for this EIR.

10 BOARD MEMBER RIE: Yes, we are.

11 STAFF COUNSEL MORGAN: Okay. Then we'll
12 definitely take care of that.

13 BOARD MEMBER RIE: Well, I was going to ask you a
14 question. And you read that correctly.

15 Has the final EIR been circulated? Does anybody
16 know?

17 STAFF COUNSEL MORGAN: I don't think there's any
18 staff here who can answer that question. But I believe
19 that it has.

20 BOARD MEMBER RIE: Okay.

21 STAFF COUNSEL MORGAN: I believe that it has.
22 But I couldn't say for sure.

23 BOARD MEMBER RIE: I think our Board -- our Board
24 I think the last time we talked about the Mayhew EIR back
25 in January, we specifically made the request to staff that

1 as soon as this EIR was ready to go, the comments were
2 addressed -- and even back in January we asked for copies
3 of the public comments. We never received them, unless,
4 Ben, you received them. I certainly didn't. And I think
5 those requests were ignored. And then the other request
6 was as soon as the EIR was published, that we would be put
7 on the mailing list and all the Board members would
8 receive a copy so we would have it at the same time as
9 everybody else.

10 And if it has been recirculated, I think again
11 you were missed on the mailing list.

12 SUPERVISING ENGINEER FUA: I think I can provide
13 some information about that. About a couple weeks ago Tim
14 Kerr and I had talked about it. And at that time the
15 final EIR hasn't been completed yet. And I would guess
16 that it hasn't been as of today. Otherwise he would have
17 provided a copy to staff and to the Board. He does
18 recognize your request to be informed of what's going on.
19 And he will if he has updated information on the EIR.

20 BOARD MEMBER RIE: Okay.

21 PRESIDENT CARTER: So I'd like to suggest that,
22 you know, the staff, if the EIR hasn't been submitted to
23 the Board and the staff three weeks prior to that meeting,
24 then it will be removed from the calendar.

25 SUPERVISING ENGINEER FUA: I will inform Tim Kerr

1 about that.

2 PRESIDENT CARTER: Is that reasonable?

3 Okay. So you've got a date. And at close of
4 business three weeks prior to October 20 if you don't have
5 it in the hand and if every Board member doesn't have it
6 in their hand, it will be removed from the calendar.

7 SUPERVISING ENGINEER FUA: I will tell him that.

8 PRESIDENT CARTER: Okay.

9 BOARD MEMBER RIE: And I think that that would
10 apply to your routine CEQA that the Board is taking a lead
11 on as a lead agency. But this particular project, we have
12 the public come in probably at least three different
13 meetings and testify that they were unhappy with the draft
14 EIR. So because of the public concern about this project,
15 the Board does need to really take a look at it and have
16 some time.

17 But if it was something very routine,
18 noncontroversial, I mean I would be okay with ten days of
19 working time. But that's just speaking for myself.

20 VICE-PRESIDENT HODGKINS: I have a question of
21 Scott.

22 From the guidelines -- can you circulate a final
23 EIR until we make findings?

24 STAFF COUNSEL MORGAN: You know, I would have to
25 read the guidelines. And I don't think so, but I'd have

1 to read the guidelines.

2 I don't really know where -- I just honestly
3 don't know where we are in the process with Mayhew. And
4 so I can't -- and I obviously guessed wrong about where
5 staff was in preparing that --

6 VICE-PRESIDENT HODGKINS: Well, I'm not -- just
7 under CEQA, I thought that in effect the Board had to
8 bless the response to comments before you could circulate
9 a final EIR. But I could be wrong.

10 STAFF COUNSEL MORGAN: No, I think you're
11 correct. But that's not my area of expertise.

12 VICE-PRESIDENT HODGKINS: Okay. And, you know,
13 the guideline that was just suggested, that's not a Board
14 action. That can be what our desire is. But if we want
15 to make that a guideline we're going to follow, I'd like
16 to see it put in a resolution and put on the agenda, so
17 that people who are going to be affected by, DWR, the
18 Corps -- because I know who's late in getting these things
19 done -- have an opportunity to come in and hear that
20 before it goes into effect.

21 So can we say put that on the agenda, you let
22 them know -- be sure they understand we're considering
23 adopting a resolution that says we're not going to put it
24 on the agenda if don't have the EIR three weeks before the
25 meeting. Is that a fair statement? I mean if that's

1 going to be the guideline, those people have to know,
2 because they crash to try and get it to you barely under
3 the deadline. I've been involved in those 24, 36 hours
4 trying to get it done.

5 STAFF COUNSEL MORGAN: Would the Board like a
6 resolution presented in October to that effect? That, you
7 know, it's 30 day -- I mean 3 weeks for controversial EIRs
8 and 10 days for a noncontroversial EIR? I mean
9 presumably as long as there's no comments, however many
10 those are going to be.

11 VICE-PRESIDENT HODGKINS: I mean if that's a
12 guideline, I'd like to see it in a resolution voted on.

13 BOARD MEMBER RIE: The only thing is the EIRs
14 we're talking about, there are EIRs where the lead agency
15 and -- and I know was the case I think it was July, our
16 staff told us that if we didn't vote on it that day, then
17 that project would have to wait until 2007.

18 VICE-PRESIDENT HODGKINS: That happens all the
19 time.

20 BOARD MEMBER RIE: So in effect if we pass a
21 resolution requiring these three weeks ahead of time, we
22 might sabotage our own projects.

23 VICE-PRESIDENT HODGKINS: That's exactly why I
24 think you should set it in a guideline. You need to be
25 sure that people are aware of it and have an opportunity

1 to give you their comments on it. Because, you know, if
2 you miss a guideline it's a month, and that can make a
3 real difference in terms of whether you do it this year or
4 next year.

5 BOARD MEMBER BURROUGHS: Well, I think our
6 President has tried to publicly make recommendations that
7 information get presented to the Board on a timely manner.
8 And despite that, it hasn't happened. And I don't think
9 it's fair to the staff or to us in making decisions or for
10 the public if we have to make a rash judgment in our vote
11 when we haven't had enough time to review the information.

12 So I personally would like to see us have
13 something written in a form of a resolution.

14 PRESIDENT CARTER: I would concur. I think that
15 we ought to have a policy, you know, that -- and there's
16 always -- this is the big downfall. There's always the
17 option of changing that or relaxing it for specific
18 situations. But the more you do that, then why have the
19 policy.

20 But I don't understand why these people can't
21 take a deadline and back up from it and do it. Because if
22 it's a month, they would crash; if it's ten days, they
23 would crash. You know, as long as you give them a
24 deadline, they work to that and they -- everything comes
25 to the last minute. The more time you give them, the more

1 time they take. So I think it's good to have the
2 guideline and have them work towards that.

3 VICE-PRESIDENT HODGKINS: I don't disagree with
4 that, and I think you're exactly right. And you can say
5 it all you want. When they see a resolution that says if
6 you can make it on there, then they have a chance to say,
7 "You can't do that to us," then they'll believe it. But
8 until you do that, they won't.

9 BOARD MEMBER BURROUGHS: And most importantly I
10 really want to support our staff. And sometimes it's not
11 fair to staff to have things at the last minute on a
12 deadline with an enormous amount of paperwork that needs
13 to be copied and sent out, and all these overnight express
14 mails that have to go out to beat the deadline. So I
15 think if we get started with that, then we can have more
16 time to work on everything.

17 PRESIDENT CARTER: So I would like to suggest the
18 Board direct staff to prepare a resolution to that effect
19 for the October meeting.

20 STAFF COUNSEL MORGAN: Okay.

21 SECRETARY DOHERTY: Why can't we just vote on
22 it -- make a --

23 STAFF COUNSEL MORGAN: It's not on the agenda.

24 SECRETARY DOHERTY: Oh.

25 BOARD MEMBER RIE: But even though it wouldn't be

1 a legal vote, couldn't we just vote?

2 (Laughter.)

3 STAFF COUNSEL MORGAN: Well, you can vote to have
4 staff do this. But the actual resolution would come up
5 next month.

6 PRESIDENT CARTER: Right.

7 STAFF COUNSEL MORGAN: Yeah, you can decide
8 amongst yourselves what you want on a resolution and we'll
9 prepare it and bring it back in the morning --

10 SECRETARY DOHERTY: Three weeks is a difficult
11 one.

12 PRESIDENT CARTER: And in the meantime we can
13 inform the Mayhew folks that if it's not there in three
14 weeks, we won't put it on the agenda. And they have lots
15 of time. They've got a month to think about that -- more
16 than a month to think about that.

17 STAFF COUNSEL MORGAN: I thought it -- was Mayhew
18 on the October agenda?

19 PRESIDENT CARTER: Yes.

20 GENERAL MANAGER PUNIA: Say in one week to get it
21 to you.

22 SECRETARY DOHERTY: We can't do it to them
23 that --

24 PRESIDENT CARTER: They got two weeks to get it
25 to --

1 STAFF COUNSEL MORGAN: Okay.

2 PRESIDENT CARTER: Actually they've got three
3 weeks. Well -- no, they've got two weeks to get it to us.

4 STAFF COUNSEL MORGAN: Yeah, this is --

5 PRESIDENT CARTER: We'll just say the document's
6 theoretically already out. So, you know, its a matter of
7 distribution. I don't think it's an issue.

8 STAFF COUNSEL MORGAN: What the Board is doing
9 here is not the general rule. This is just directing
10 staff about this particular EIR. So that's not a problem.

11 PRESIDENT CARTER: Correct.

12 VICE-PRESIDENT HODGKINS: I was in -- I mean I
13 was in my right to express a different opinion at the next
14 Board meeting, I hope.

15 (Laughter.)

16 VICE-PRESIDENT HODGKINS: I mean I have been
17 involved in these things. And I know people are working
18 out schedules that back up six weeks, eight weeks from a
19 deadline like the Board. And then it works if everybody
20 delivers what they're supposed to deliver when they say.
21 And they never do. And it's always a crash at the last
22 minute. So all I'm saying is -- and I don't know a damn
23 thing about that project. I meant to go to the public
24 hearing, but I didn't. I forgot. And so they just had
25 that last Tuesday. But I know from experience that they

1 may well need to have it approved at the next meeting or
2 they lose some. And I could be asking you to reconsider.
3 Although I don't know how I can. It's not a Board
4 decision anyway.

5 PRESIDENT CARTER: Right.

6 Okay. So anything else on future agenda?

7 GENERAL MANAGER PUNIA: One project, people met
8 with the Atlas Tract on -- government in Stockton area,
9 they met with us. We asked them to do a hydraulic study.
10 And they are working hard to provide us that hydraulic
11 study.

12 So they're pushing us to be on the October
13 agenda. But at this time they are not ready, but they are
14 providing additional information to the staff.

15 BOARD MEMBER RIE: What was the permit for?

16 GENERAL MANAGER PUNIA: It's coming two phases.
17 The first phase is to put in ramps. And Dan may be able
18 to provide more detail.

19 Dan, can you elaborate more on Atlas Tract?

20 SUPERVISING ENGINEER FUA: Well, actually the
21 main project is to tie into our levee for a proposed
22 development. So they --

23 SECRETARY DOHERTY: What development?

24 SUPERVISING ENGINEER FUA: It's a land for
25 homes -- basically homes. So the project is to raise

1 their private levees and tie it into our own project
2 levees.

3 PRESIDENT CARTER: Okay.

4 BOARD MEMBER RIE: Yeah. So whatever information
5 the staff could provide in advance. Like today, for
6 example, we're just getting this handout. These things
7 are great to have. So we can even start looking at it now
8 a month in advance.

9 PRESIDENT CARTER: So they may or may not be
10 ready. We'll cross that bridge when we come to it.

11 GENERAL MANAGER PUNIA: That's correct.

12 PRESIDENT CARTER: That's potential.

13 Anything else?

14 BOARD MEMBER RIE: I just have one comment on the
15 EIR comments. But just when I -- I know Jay said that we
16 sort of ran out of time and there was a deadline. I mean
17 typically we get EIRs and then there's a 30-day or
18 sometimes a 45-day comment period. So as soon as we get
19 it, if we know that we are going to comment and it's
20 controversial, at that point that we receive it and we
21 know we're going to comment, we should be scheduling
22 either a special meeting or putting these things on the
23 agenda so we can -- the Board can have an opportunity to
24 comment. And then that's something that you know what
25 your timeframe is. And because it was a September 5th

1 deadline, there was no way that you could wait until
2 today. But, well, we certainly could have planned
3 something like a special meeting, or even a task force
4 meeting to provide comments.

5 PRESIDENT CARTER: Okay. We can endeavor to do
6 that.

7 Okay. Anything else?

8 BOARD MEMBER BURROUGHS: Just earlier we talked
9 about putting on the agenda the San Joaquin update on --

10 GENERAL MANAGER PUNIA: Yeah, there will be
11 briefing. I will check for the lineup of U.S. Bureau or
12 DWR on the San Joaquin restoration settlement.

13 PRESIDENT CARTER: Okay. Anything else?

14 Okay. Then thank you very much.

15 BOARD MEMBER RIE: One last question.

16 I know that we were able to bring Nancy on board
17 to help out. And I was just curious if that was a budget
18 change proposal that was submitted a year ago or if DWR
19 was just able to, you know, extend a helping hand because
20 they saw that Scott was very busy.

21 STAFF COUNSEL MORGAN: No, we have several new
22 attorneys in the office. And Nancy was added to do flood
23 work and also part time with the Rec Board work as well.

24 We have another attorney that serves the
25 electricity folks, someone else working on Delta issues,

1 and a couple folks working on contracts. So the Legal
2 Office has increased its staff significantly in the last
3 several months.

4 BOARD MEMBER RIE: And this is for Ben and Jay.

5 Is there a possibility -- I know Steve is very
6 busy, you're probably very busy -- to have DWR send maybe
7 an engineer over to help out until -- because it seems
8 like we just approved a lot of new positions and we're
9 reorganizing and reshuffling. And rather than wait until
10 a law measure to pass or for, you know, a year or two for
11 a budget change proposal, that there's a possibility that
12 DWR could loan us someone on a temporary basis?

13 GENERAL MANAGER PUNIA: We will pursue that
14 option to Lester Snow and Les Harder and Rod Mayer. But
15 always there's a reluctance from the program manager,
16 because that position has to come from some program and
17 there will be resistance from that program manager to
18 release those positions.

19 But we will pursue this option during our
20 executive committee meeting with DWR.

21 BOARD MEMBER RIE: Okay.

22 BOARD MEMBER BURROUGHS: With that, we've also
23 needed support staff as well in the office.

24 GENERAL MANAGER PUNIA: That's correct. That's
25 why we are asking one associate to go -- program analyst.

1 That will be the support -- adding additional support for
2 the support staff.

3 BOARD MEMBER BURROUGHS: But if it's possible to
4 also include that rather than waiting till next year. We
5 need the help now too.

6 GENERAL MANAGER PUNIA: We will.

7 BOARD MEMBER BURROUGHS: Okay. Thank you.

8 PRESIDENT CARTER: All right. It's very late.

9 BOARD MEMBER RIE: Move to adjourn.

10 PRESIDENT CARTER: And we are adjourned.

11 (Thereupon the The Reclamation Board open
12 session meeting adjourned at 5:55 p.m.)

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1 CERTIFICATE OF REPORTER

2 I, JAMES F. PETERS, a Certified Shorthand
3 Reporter of the State of California, and Registered
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the
6 foregoing Reclamation Board open session meeting was
7 reported in shorthand by me, James F. Peters, a Certified
8 Shorthand Reporter of the State of California, and
9 thereafter transcribed into typewriting.

10 I further certify that I am not of counsel or
11 attorney for any of the parties to said meeting nor in any
12 way interested in the outcome of said meeting.

13 IN WITNESS WHEREOF, I have hereunto set my hand
14 this 5th day of October, 2006.

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